Rec'd late

State of California, State Water Resources Control Board
Division of Water Rights
P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 341-5300, FAX: (916) 341-5400 Web: http://waterrights.ca.gov

S014967

2005, 2006, 2007

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FORM

Owner(s) of Record:
EL DORADO IRRIGATION DISTRICT

Notifying the Division of Water Rights of ownership or address changes is the responsibility of the claimant

Please Complete and Return This Form by JULY 1, 2008

Primary Contact:
EL DORADO IRRIGATION DISTRICT
2890 MOSQUITO RD
PLACERVILLE, CA 95667

Phone No. 530-622-4513
Fax No.
E-mail Address:

Agent:
Address:

Phone No.
Fax No.
E-mail Address:

2009 MAR -2 AM 11:42
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
SACRAMENTO

Source Name: HANGTOWN CREEK
Tributary To:
County: El Dorado
Diversion within: SE 1/4 of SW 1/4 Section 7, T 10 N, R 11 E, MDB&M

Year of First Use: 1852
Name of Diversion works:
Assessor Parcel Number of the Diversion site:

A. **Water is Used Under:** Riparian claim ___ Pre-1914 claim __X__ Court Decree No.: _____ Other (explain): _____

B. **Year of First Use:** (Please provide if missing in the Division of Rights database (ewrims)) _____

C. **Rate of Diversion:** The rate of diversion of water for each month used and entered in the table below is shown in units of:
Gallons per minute (gpm) _____ Gallons per day (gpd) _____ Cubic feet per second (cfs) __X__

Year	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Average Rate
2005	0	0	0	1.41	1.59	0.74	0.28	0.23	0.22	0.16	0	0	0.39
2006	0	0	0	1.51	1.72	0.79	0.29	0.24	0.24	0.16	0	0	0.41
2007	0	0	0	0	0.69	0.31	0.12	0.11	0.21	2.41	0	0	0.64

D. **Quantity of Water Used:** The quantity of water used each month and entered in the table below is shown in units of:
Gallons _____ Million Gallons (MG) _____ Acre-feet (AF) __X__

Year	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Total Annual
2005	0	0	0	84	98	44	17	14	13	10	0	0	280
2006	0	0	0	90	106	47	18	15	14	10	0	0	300
2007	0	0	0	0	20	18	7	7	13	72	0	0	137

E. **Purpose of Use** – Specify number of acres irrigated, stock watered, persons served, etc.

Irrigation _____ acres; Stockwatering _____; Domestic _____;
Other (specify) Municipal and Industrial

Parcel Number(s) of Place of Use: _____

F. **Changes in Method of Diversion** – Describe any changes in your project since your previous statement was filed.
(New pump, enlarged diversion dam, location of diversion, etc.)
"see attached"

G. Please answer only those questions below which are applicable to your project.

1. Conservation of water

a. Are you now employing water conservation efforts? YES __X__ NO ___
Describe any water conservation efforts you have initiated: "see attached"

b. If you are claiming credit for water conservation under section 1011 of the Water Code for your claimed pre-1914 appropriative right, please show the amount of water conserved:

Reduction in Diversions:
Year ____ _____ (AF/MG) Year ____ _____ (AF/MG) Year ____ _____ (AF/MG)

Reduction in consumptive use:
Year 2005 500 (AF/MG) Year 2006 514 (AF/MG) Year 2007 549 (AF/MG)

I have data to support the above surface water use reductions due to conservation efforts. YES X NO _____

2. Water quality and wastewater reclamation

   a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility or water polluted by waste to a degree which unreasonably affects such water for other beneficial uses? YES X NO ____.

   b. If you are claiming credit due to the substitution of reclaimed water, desalinated water or polluted water in lieu of a claimed pre-1914 appropriative right under section 1010 of the Water Code, please show amounts of reduced diversions and amounts of substitute water supply used:

   Amount of reduced diversion:
   Year ____ _____ (AF/MG) Year ____ _____ (AF/MG) Year ____ _____ (AF/MG)

   State the type of substitute water supply: Reclaimed water

   Amount of substitute water supply used:
   Year 2005 2,215 (AF/MG) Year 2006 2,782 (AF/MG) Year 2007 2,938 (AF/MG)
   I have data to support the above surface water use reductions due to the use of a substitute water supply. YES _____ NO _____.

3. Conjunctive use of surface water and groundwater

   a. Are you now using groundwater in lieu of surface water? YES _____ NO X.

   b. If you are claiming credit due to the substitution of groundwater for a claimed pre-1914 appropriative right under section 1011.5 of the Water Code, please show the amounts of groundwater used:
   Year ____ _____ (AF/MG) Year ____ _____ (AF/MG) Year ____ _____ (AF/MG)
   I have data to support the above surface water use reductions due to the use of groundwater. YES _____ NO _____.

I understand that it may be necessary to document the water savings claimed in "F" above if credit under Water Code sections 1010 and 1011 is sought in the future.

I declare that the information in this report is true to the best of my knowledge and belief.

DATE: February 13, 2009 at Placerville, California

SIGNATURE: _____

PRINTED NAME: David (first name) K. (middle initial) Witter (last name)

COMPANY NAME: El Dorado Irrigation District

If there is insufficient space for your answers, please use the space provided below or add an attachment sheet.

ITEM	CONTINUATION
	"see attached"

GENERAL INFORMATION PERTAINING TO WATER RIGHTS IN CALIFORNIA

There are two principal types of surface water rights in California. They are riparian and appropriative rights.

A riparian right enables an owner of land bordering a natural lake or stream to take and use water on his riparian land. Riparian land must be in the same watershed as the water source and must never have been severed from the sources of supply by an intervening parcel without reservation of the riparian right to the severed parcel. Generally, a riparian water user must share the water supply with other riparian users. Riparian rights may be used to divert the natural flow of a stream but may not be used to store water for later use or to divert water which originates in a different watershed, water previously stored by others, return flows from use of groundwater, or other "foreign" water to the natural stream system.

An appropriative right is required for use of water on non-riparian land and for storage of water. Generally, appropriative rights may be exercised only when there is a surplus not needed by riparian water users. After the formation of the California Water Commission back on December 19, 1914, new appropriators have been required to obtain a permit and license from the State. Appropriative rights can be granted to waters "foreign" to the natural stream system.

Statements of Water Diversion and Use must be filed by riparian and pre-1914 appropriative water users as set forth in Water Code section 5100 with specific exceptions. The filing of a statement (1) provides a record of water use, (2) enables the State to notify such users if someone proposes a new appropriation upstream from their diversions, and (3) assists the State to determine if additional water is available for future appropriators.

The above discussion is provided for general information. For more specific information concerning water rights, please contact an attorney or write to this office. We have several pamphlets available. They include: (1) Statements of Water Diversion and Use, (2) Information Pertaining to Water Rights in California, and (3) Appropriation of Water in California.

C & D	Gaging was being installed and calibrated during 2005 and 2006. Seasonal Diversion from May 15th thru October 15th.
E & F	This right was formerly used in conjunction with the Gold Hill Ditch non-potable agricultural uses. All ditch customers have been converted to potable water supplies and the point of diversion in 2005, 2006, and 2007 was moved to Folsom Lake per Warren Act contracts with USBR. Purposes of use converted to wildlife enhancements upstream of Folsom, and domestic, municipal and industrial use. Place of use converted to El Dorado Hills area within District boundaries.
G.1.a.	The District is currently implementing water conservation best management practices, including all urban measures reported in our Urban Water Management Plan 2005 Update; and all agricultural measures reported in our USBR Five-Year Water Management Plan Update.
G.1.b and G.2.b	Reduction/substitution volumes are District-wide (excluding agricultural IMS program), and not attributable solely to this right.

State of California, State Water Resources Control Board
Division of Water Rights
P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 341-5300, FAX: (916) 341-5400 Web: http://waterrights.ca.gov

S014967%S%2004

2002, 2003, 2004

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE

If the information below is inaccurate, please line it out in red and provide current information.
Notify this office if ownership or address changes occur during the coming year.

Please Complete and Return This Form by JULY 1, 2005.

***If the mail recipient's name, address or phone No. is wrong or missing, please correct.**

Owner of Record: EL DORADO IRRIGATION DISTRICT;

PRIMARY CONTACT OR AGENT FOR MAIL & REPORTING:
EL DORADO IRRIGATION DISTRICT

2890 MOSQUITO RD
PLACERVILLE, CA 95667

STATEMENT NO.: S014967
CONTACT PHONE NO.: (530)622-4513

Source Name: HANGTOWN CREEK
Tributary To: WEBER CREEK
County: El Dorado
Diversion Within: SE1/4 of SW1/4 Section 07, T10N, R11E, MB&M

Year of First Use: 1852
Parcel Number:

A. **Water is Used Under:** Riparian claim _____ Pre-1914 right __X__ Other (explain): _____

B. **Year of First Use:** (Please provide if missing above) _____

C. **Amount of Use:** Enter the amount (or the approximate amount) of water used each month, using the table below.

Amounts below are in: Gallons _____ Million Gallons (MG) _____ Acre-feet (AF) __X__ Other _____

Year	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Total Annual
2002	0	0	0	0	0	0	0	0	0	0	0	0	0
2003	0	0	0	0	0	69	29	22	21	15	0	0	154
2004	0	0	0	133	156	69	29	22	21	15	0	0	444

D. **Purpose of Use** – Specify number of acres irrigated, stock watered, persons served, etc.

Irrigation _____ acres; Stockwatering _____; Domestic *Yes, El Dorado Hills*

Other (specify) *Municipal and industrial*

E. **Changes in Method of Diversion** – Describe any changes in your project since your previous statement was filed.
(New pump, enlarged diversion dam, location of diversion, etc.)
Point of diversion changed to EID Folsom Lake raw water pumping station per one year USBR Warren Act contract in 2003 and 2004

F. Please answer only those questions below which are applicable to your project.

1. Conservation of water
   a. Are you now employing water conservation efforts? YES __X__ NO ___
   Describe any water conservation efforts you have initiated:
   Conservation measures for all District users per UWMP and USBR Water Conservation Plan (all applicable BMPs)

   b. If you are claiming credit for water conservation under section 1011 of the Water Code for your claimed pre-1914 appropriative right, please show the amount of water conserved:

   Reduction in Diversions:

   Year ____ _____ (AF/MG) Year ____ _____ (AF/MG) Year ____ _____ (AF/MG)

   Reduction in consumptive use:

   Year ____ _____ (AF/MG) Year *2003 535 af* (AF/MG) Year *2004 635 af* (AF/MG)

   I have data to support the above surface water use reductions due to conservation efforts. YES __X__ NO _____

a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility or water polluted by waste to a degree which unreasonably affects such water for other beneficial uses? YES __X__ NO ____.

b. If you are claiming credit due to the substitution of reclaimed water, desalinated water or polluted water in lieu of a claimed pre-1914 appropriative right under section 1010 of the Water Code, please show amounts of reduced diversions and amounts of substitute water supply used:

Amount of reduced diversion:
Year ____ _____ (AF/MG) Year ____ _____ (AF/MG) Year ____ _____ (AF/MG)

State the type of substitute water supply: *Reclaimed water*

Amount of substitute water supply used:
Year ____ _____ (AF/MG) Year *2003 1,690 af* (AF/MG) Year *2004 1,980 af* (AF/MG)

I have data to support the above surface water use reductions due to the use of a substitute water supply. YES ____ NO ____.

3. Conjunctive use of surface water and groundwater

a. Are you now using groundwater in lieu of surface water? YES ____ NO __X__.

b. If you are claiming credit due to the substitution of groundwater for a claimed pre-1914 appropriative right under section 1011.5 of the Water Code, please show the amounts of groundwater used:

Year ____ _____ (AF/MG) Year ____ _____ (AF/MG) Year ____ _____ (AF/MG)

I have data to support the above surface water use reductions due to the use of groundwater. YES ____ NO ____.

I understand that it may be necessary to document the water savings claimed in "F" above if credit under Water Code sections 1010 and 1011 is sought in the future.

I declare that the information in this report is true to the best of my knowledge and belief.

DATE: *June 29* , 20 *05* at *Placerville*, California

SIGNATURE: *David K. Witter*

PRINTED NAME: *David* (first name) *K* (middle initial) *Witter* (last name)

COMPANY NAME: *El Dorado Irrigation District*

If there is insufficient space for your answers, please use the space provided below.

ITEM	CONTINUATION
_____	*See attached*
_____	_____
_____	_____
_____	_____
_____	_____

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Statements of Water Diversion and Use must be filed by riparian and pre-1914 appropriative water users as set forth in Water Code section 5100 with specific exceptions. The filing of a statement (1) provides a record of water use, (2) enables the State to notify such users if someone proposes a new appropriation upstream from their diversions, and (3) assists the State to determine if additional water is available for future appropriators.

The above discussion is provided for general information. For more specific information concerning water rights, please contact an attorney or write to this office. We have several pamphlets available. They include: (1) Statements of Water Diversion and Use, (2) Information Pertaining to Water Rights in California, and (3) Appropriation of Water in California.

El Dorado Irrigation District

In reply refer to: L1005-054

June 3, 2005

Katherine Mrowka
State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000

Re: Notice of Petition to Change Point of Diversion, Place of Use, and Purpose of Use – License 2184 (A01692)

Dear Ms. Mrowka:

This letter is to confirm that El Dorado Irrigation District, petitioner in the above-named action, concurs with and will accept the two conditions that the United State Bureau of Reclamation has proposed for inclusion in the State Water Resources Control Board's order approving the petition.

The two conditions are proposed in a letter dated February 25, 2005 from Donna Tegelman, the USBR's Regional Resource Manager of the USBR to Victory Whitney, the SWRCB's Chief of the Division of Water Rights. A copy is attached for reference.

Thank you for your continued cooperation in this matter.

Very truly yours,

EL DORADO IRRIGATION DISTRICT

Thomas D. Cumpston
General Counsel

TDC:jh

Enclosure

cc: Robert Donlan, Esq. (w/ encl.)
Chris Word (w/ encl.)
David Witter (w/ encl.)
Megan Sheely, SWRCB (w/ encl.)
Dana Heinrich, Esq., SWRCB (w/ encl.)

2890 Mosquito Road, Placerville, California 95667 • (530) 622-4513

DISCUSSION OF COMMENTS ON THE EID RELOCATION OF WATER RIGHTS MITIGATED NEGATIVE DECLARATION

Submitted to the

El Dorado Irrigation District Board of Directors

June 6, 2005

INTRODUCTION

The *EID Relocation of Water Rights Mitigated Negative Declaration* (MND) was circulated for a 30-day public review period. Pursuant to Section 15074 (b) of the California Environmental Quality Act (CEQA), the decisionmaking body, in this case the EID Board of Directors, shall consider the proposed mitigated negative declaration together with any comments received during the public review process.

This document identifies the agency or organization providing comments on the MND and provides responses to the comments for the Board's information. Copies of the correspondence received are attached to this document.

COMMENTS AND DISCUSSION OF COMMENTS

Comments of California Native Plant Society
P.O. Box 377
Coloma, CA 95613
Comments dated May 26, 2005

The following are comments of the California Native Plant Society (CNPS) and staff's responses to these comments.

Comment #1: The document lacks disclosure of potentially significant adverse impacts to rare plant species.

Response #1: The document discloses the presence of rare plants, identifies the potential growth-inducing effects of the project on rare plants, and prescribes a mitigation measure designed to eliminate the growth-inducing effects on rare plants. See pages 22, 30, 31, Figures 13 and 14, and Attachment 4 of the MND.

Comment #2: The IS and mitigated ND fails to evaluate the impacts on rare plants occurring on presently undeveloped properties that may receive water from this project in the future. As mentioned in the document, five threatened and endangered plants occur within on gabbro soils in the in the Cameron Park area of El Dorado County. The document fails to mention that an additional three species (*Chlorogalium grandiflorum, Helianthemum suffrutescens, and Wyethia reticulata*) occur in this area that are considered rare by the California Department of Fish and Game and as such must be evaluated in this document in accordance with CEQA. (CEQA Guidelines 15380).

Response #2: The impact identified in the MND was the "potential for growth-inducement in the Gabbro Soil Plants Ecological Preserve," with the latter "as identified in the Recovery Plan for Gabbro Soil Plants of the Central Sierra Nevada Foothills (USFWS 2002)." The MND did not identify *Chlorogalium grandiflorum, Helianthemum*

suffrutescens, or Wyethia reticulata **by name. However, the referenced Recovery Plan identifies and encompasses the five listed species as well as *Wyethia reticulata.* In addition, the USFWS Recovery Plan states at page II-4 as follows:**

> **Eight rare plant species are associated with gabbroic or sepentine-derived soils near the Pine Hill formation in western El Dorado County within chaparral or woodland communities – the six target species of this recovery plan plus two other species of concern (*Chlorogalium grandiflorum* [Red Hills soaproot] and *Helianthemum suffrutescens* [Bisbee Peak rush rose].). Because most of their occurrences are not on gabbro soil formations, the two latter species will be covered in other recovery plans for the portion of their range off the Pine Hill formation.**

Thus, although the MND did not identify individual plant species by name, its discussion of potential growth-inducing impacts to the Gabbro Soil Plants Ecological Preserve, and the mitigation measure it prescribed to eliminate those impacts, necessarily included all species that could foreseeably be significantly impacted. (We hereby incorporate the Recovery Plan by reference into the record of proceedings for this action.)

Comment #3: The CEQA Guidelines further state that "A Lead Agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared when any of the following conditions occur . . . reduce the number or restrict the range of a rare or endangered plant or animal." (CEQA Guidelines 15065). In this project, the water supplied by the new diversions could result in the reduction of the number of rare plants within even the modified service boundary proposed by EID.

Response #3: The CEQA Guideline quoted above was amended effective September 7, 2004. The Guideline presently reads as follows (new material is *italicized*):

> **A lead agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where *there is substantial evidence, in light of the whole record, that* any of the following conditions may occur: (1) The project has the potential to . . . *substantially* reduce the number or restrict the range of an endangered, rare or threatened species."**

As originally proposed, the authorized place of use for water in this project would have included lands within the Gabbro Soil Plants Ecological Preserve, but outside of EID's existing Service Area. With very limited exceptions (see Government Code section 56133), EID cannot serve water to lands not annexed to its Service Area. Nevertheless, the MND recognized that the potential availability of this water supply to preserve lands outside of EID might increase the likelihood or intensity of their development, and therefore the MND identified this possibility as a growth-inducing impact.

Conversely, water is already available to any parcel within the existing EID Service Area, including parcels that are within the preserve, upon compliance with EID's Rules and

Regulations. (We hereby incorporate by reference the District's 2005 Water Resources and Service Reliability Report into the record of proceedings for this action. The Report documents the present availability of water supplies for new customers in this area of EID.) EID has legal responsibilities to provide available water within its service area.

With the above principles in mind, the MND prescribed a mitigation measure to eliminate any growth-inducing effects of the project on rare plants – removing all preserve lands not currently within EID's Service Area from the authorized place of use for the project's water supplies.

We will discuss each of these points in greater detail in our response to the next comment.

Comment #4: [T]he effect of growth inducement on the area occupied by rare plant species is significant for several reasons. First, there are numerous parcels in the northern most portion of the EID service boundary which are included as Priority 1 lands in the Recovery Plan for Gabbro Soils Plants of the Central Sierra Nevada Foothills (US Fish and Wildlife Service 2002). Some of these parcels are presently undeveloped and others although developed may be developed further given the existing zoning in the area. The Service determined that conservation of these lands "must be taken to prevent extinction or to prevent a species from declining irreversibly in the foreseeable future." (Id., p. III-37). As a result, development of these lands that are critical to the conservation of the listed species could lead to the reduction in numbers of rare plants and decline of the species. This is a potentially significant effect on the environment requiring the preparation of an EIR.

Response #4: **The project's potential to provide water to parcels *within* the preserve but *outside* the existing EID Service Area is discussed on pages 22 and 30 of the MND. Specifically, the current lack of water availability in parcels outside the existing EID Service Area is an obstacle to growth. If the authorized place of use for water supplies from this project includes lands outside of the existing EID Service Area, that designation *could* remove an obstacle to growth, although other obstacles, such as insufficient access, the need for annexation, financial infeasibility, or a host of other factors, might prevent growth on any such parcels.**

Where such parcels might host rare plant species, adverse impacts could, in turn, result. To be deemed significant under CEQA Guidelines section 15065(a)(1), those potential impacts would have to substantially reduce the number or substantially restrict the range of those species. At this time, whether and to what degree impacts to rare plants could occur is speculative because there is no evidence in the record regarding the specifics of future development and plant occurrences on lands outside of the existing EID Service Area.

Notwithstanding the speculative nature of growth-inducing effects in these non-EID lands eligible to receive the rediverted water, the MND identified this as a potentially significant impact and prescribed a mitigation measure to eliminate it. The mitigation measure removes from the project's authorized place of use all preserve areas that are outside existing EID Service Area boundaries.

In contrast, using the rediverted water within the existing EID Service Area, even within preserve lands, would not result in *new* significant impacts attributable to this project. No new impacts would result because water is already presently available to these lands on the same basis as anywhere else in EID's Service Area. Therefore, lack of water supplies is not presently a constraint to development on preserve lands within EID's Service Area, and this project does not change that status quo.

As does any public utility, EID has a legal duty to serve customers within its service area upon reasonable terms and conditions, including reasonable extensions of service within the territorial bounds. (See, e.g., *Swanson v. Marin Municipal Water District* (1976) 56 Cal.App.3d 512, 523; *California Water & Telephone Co. v. Public Utilities Commission* (1959) 51 Cal.2d. 478, 493.) An irrigation district may not arbitrarily discriminate amongst water users within the district. (*Ivanhoe Irrigation District v. All Parties and Persons* (1957) 47 Cal. 2d 597, 636.) It has been held that each landowner within the district has a vested right to the use of a definite proportion of an irrigation district's water supply. (*Merchants National Bank v. Escondido Irrigation District* (1904) 144 Cal. 329, 334.) It has also been held that a landowner can bring a lawsuit against the officers of an irrigation district for their negligent or willful failure to perform its legal duty of furnishing the landowner with a portion of the district's available water. (*Nissen v. Cordua Irrigation District* (1928) 204 Cal. 542, 544-545.).

Thus, this project does not change in any way the potential for development on preserve lands within EID's service area. That risk to the plant species is part of the environmental baseline, and not an effect of this project.

<u>Comment #5:</u> Second, this effect is not reduced to less than significant under existing policy or regulations. The El Dorado County general plan includes a rare plant preserve system and mitigation program that addresses to some degree the impacts on these rare species. As documented in the recently completed EIR for the general plan, the program does not reduce impacts to less than significant. Possibly, a lead agency might rely on the analysis in the general plan EIR to disclose the significant effects on the rare plants, but in this case it is inadequate to do so. Many of the parcels that occur within the USFWS recovery plan boundary for which conservation is necessary to "prevent extinction" are not are not included in the preserve system adopted by El Dorado County. The EIR for the general plan fails to recognize that these differences in preserve location have the potential to contribute to the extinction of some of these rare species. Thus, the adverse impacts of failing to protect lands necessary to prevent the extinction of rare species have not been disclosed.

<u>Response #5:</u> **For the reasons stated above, EID respectfully disagrees that this project as mitigated will have any adverse effect, let alone a significant one, on rare plants. EID has no control over County policies or regulations regarding development. The County's General Plan EIR considered impacts of plan alternatives on special-status species as a whole, rather than separately considering whether impacts on gabbro soil rare plants were significant.**

Comment #6: New information on El Dorado County's implementation of the rare plant mitigation program must be considered when evaluating impacts. In 1998, El Dorado County Board of Supervisors (BOS) adopted a program of mitigation measures for the rare plant area. The program consists of direction on mitigation requirements and a "fee in lieu of mitigation" program. (County government code Chapter 17.71 and Resolution No. 205-98). El Dorado County has failed to administer this program in two important aspects that contribute to the potential for adverse impacts beyond those analyzed in existing environmental documents.

First, the zoning ordinance passed by the BOS requires that to develop parcels included in the County's rare plant preserve boundary, the project proponent must "address mitigation for impacts to rare plants on an individual basis." (Chapter 17.71.210). In such cases, there are three options for developing land based mitigation measures. In the two options allowing on-site set asides of land, dedication of a "perpetual conservation easement" for habitat protection is required. County Planning staff has confirmed that contrary to adopted policy conservation easements are not required for those projects using these options. Absent a conservation easement held by a third party, there is no vehicle to monitor the management of these set aside lands. When asked directly, representatives at the Planning Department were not able to provide a list of the projects and their locations were the set asides were established although it was suggested that approximately ten projects had been under taken since 1998. The County has not established a program to monitor the use of the set aside lands. There is a high potential for the set aside lands to be managed in ways that are not compatible with rare plant persistence. Clearing to bare ground, livestock holding and grazing, and intensive landscaping and watering are just a few examples of uses that are common on the type of residential properties located in the preserve areas and generally are not compatible with rare plant conservation. Thus, the conservation benefit that these on-site mitigation lands provide to the rare plants is not known and it is quite possible that adverse impacts to these species, such as a reduction in numbers, are ongoing.

Second, the county zoning ordinance directs the annual review of the mitigation fee first assigned in 1998. The fee was originally assigned based on assumptions about area of land needing protection, the number of dwelling units contributing to the mitigation fee program and the cost of acquired lands. Although directed to do so annually, the fee program has never been reviewed by the BOS. Since 1998, land values in the county (especially in urbanizing areas) have increased substantially yet the mitigation fee, intended to mitigate the loss of rare plants and their habitat, has remained the same. As a result, rare plants and habitat outside of the county's plant preserve system are being lost at a rate greater than that compensated for by the collection of mitigation fees. This change results in greater uncompensated reductions in the number of rare plants than previously disclosed and is significant under CEQA.

Response #6: The County's mitigation program and administration of mitigation fees for development in the preserve is relevant only to the County's processing of specific development projects proposed within the preserve area. Because EID is not proposing such a project, EID's project is not subject to and has no factual nexus to the County program and fees referenced in the comment. For the reasons explained above, this project's provision of water within EID's existing Service Area does not alter the existing environmental status quo. Potential defects in the County's program and fees are land-use

issues that must be addressed directly with the County – EID has no control over the County's implementation of its land-use policies and regulations.

Comment #7: Feasible mitigation measures exist to further reduce the impacts to rare plants, but they have not been adopted. There are a number of mitigation measures that could be adopted that would reduce the impacts to rare species. They include:

a. Protection of lands outside the County's preserve boundary and within the recovery plan boundary. Such protection could be accomplished by El Dorado County through changes in its land use plan or by EID's acquisition of the specific lands with the EID service area that are necessary to prevent the extinction of the rare plant species.

b. EID could hold and monitor the conservation easements required for the set aside lands defined in the County's zoning ordinance. As a government agency, EID can hold conservation easements. EID's establishment of a monitoring and enforcement program would then insure that the set aside lands were protected for their intended use – to preserve rare plants and their habitat in perpetuity.

c. Make changes to the mitigation fee structure that keep pace with the increasing cost of land. EID could make a request of El Dorado County to review the fees. EID could develop a proposal for the County's periodic adjustments in fees based in a yearly index of housing and land prices as a mechanism to ensure annual adjustments to the fee. Alternatively, EID could make a payment to the mitigation fund that compensates for the County's under collection of fees.

Each of the above would reduce the level of impacts to rare species by protecting habitat that is necessary to prevent extinction of these rare species. These measures, however, are not sufficient to reduce the level of impact to less than significant and an EIR must still be prepared.

Response #7: EID is not proposing any specific development project in the preserve and has fully mitigated potential growth-inducing impacts on the preserve by excluding from the project those portions of the preserve that are not already in EID Service Area boundaries. Because no new potentially significant impacts have been identified for EID's project as mitigated, neither the adoption of additional mitigation measures nor preparation of an EIR is required. Nevertheless, the comment provides an opportunity for EID to summarize significant accomplishments it has already achieved in each of the above subject areas.

The commentor first suggests that EID acquire preserve lands itself. In fact, EID has repeatedly participated in the acquisition of preserve lands that are within both the Recovery Plan boundary and EID's Service Area, but outside of the County's preserve system. In 1997, EID contributed $834,000 to the 117-acre Phase I purchase of the Cameron Hill unit of the preserve. In 1998, EID contributed $500,000 to the 63-acre Phase II purchase of the Cameron Park unit. At the time of these $1,334,000 contributions, the Cameron Park preserve was not part of the County's designated preserve system. In December 2002, EID contributed $212,500 to the acquisition of the 229-acre Zee property, which is within EID's existing Service Area. As part of the Zee property purchase, EID

also was instrumental in persuading a private developer to contribute $25,000 toward the purchase price.

The above transactions represent EID contributions in excess of $1,500,000 for more than 400 acres of preserve lands. All of these contributions were at EID's discretion – none were compelled by CEQA or other environmental laws. In addition, as a member of the El Dorado County Water Agency Board of Directors, EID urged and helped approve a contribution of $828,000 for preserve land purchases in 2002. Further, for years EID has been actively and successfully lobbying Congressman John Doolittle to obtain federal funding for preserve acquisition. Thanks in part to our efforts, Congressman Doolittle obtained legislation in 2001 and 2002 that provided a total of $8,000,000, all of which has been expended for extensive preserve purchases.

In addition, EID has paid more than $3,000,000 in Habitat Restoration Fees in connection with its purchases of water from the United States Bureau of Reclamation. The USBR's Habitat Restoration Fund has been an additional, significant source of funding for numerous preserve land acquisitions.

The commentor next proposes that EID hold and manage preserve lands to ensure they are protected for their intended use. EID concurs completely that all preserve lands are best managed by a public agency. In past transactions, the consensus of the funding parties has been that the Bureau of Land Management is best situated to take ownership of the land. The BLM, in turn, wanted full participation in the management of the lands and initiated a Management Advisory Group. BLM's effort resulted in a Cooperative Management Agreement for the preserve lands, which EID signed in March 2001. (We hereby incorporate the Cooperative Management Agreement by reference into the record of proceedings for this action. Relevant provisions of the Agreement are summarized below.)

The purpose of the Cooperative Management Agreement is "to coordinate to the fullest extent possible the protection, care, regulation, administration, improvement, restoration and management of those lands." A Management Plan is the crux of that effort. EID's only assigned role with respect to *land ownership* is to provide access and maintenance on its water main easements within preserve lands to minimize the impact on plants and habitat. EID is open to other arrangements, but the commentor's proposal represents a significant change of course that would need the consent of the other parties to the Cooperative Management Agreement.

EID is an active participant in activities under the Cooperative Management Agreement, including the development of the Management Plan. In 2002, 2003, and 2004, EID provided $25,000 each year to help fund the Preserve Manager position created by the Agreement. Funds have also been budgeted for this purpose in 2005. This commitment represents an additional $100,000 in voluntary EID funding for rare plant preservation.

Finally, the commentor proposes that EID urge the County to amend its fee structure, or establish a mitigation fee of its own to help compensate for any shortfall in the County's collection of funds. In fact, EID has had its own in-lieu mitigation fee for rare plant preserve acquisition since 1998. EID imposes a surcharge of $345 per new service

connection *on every water meter purchased within EID's existing Service Area, whether or not the new service is within the designated preserve lands or the range of the rare plant species.* Originally a temporary surcharge, this fee was made permanent in early 2003.

Comment #8: Conserving the rare plant species associated with the gabbro soils in El Dorado County can only be accomplished by agencies and the public working together. It is only through the diligent implementation of programs adopted on paper that we can protect this unique suite of plants. This decision point, to change water diversion points and use, is the opportunity for EID to review the implementation and effectiveness of the conservation programs for these rare plants and disclose the effects of these efforts on this sensitive resource. Such a review and disclosure is the right thing to do to protect the resource and it is also necessary to meet the intent of CEQA.

Response #8: EID agrees that the conservation of these species can only occur through the cooperative efforts of government agencies and the public. As the above discussion shows, EID backs its words with action – EID has been and will continue to be an active participant in all such efforts. Our partners to date include the Bureau of Land Management, United States Fish & Wildlife Service, California Department of Fish & Game, California Department of Forestry and Fire Protection, El Dorado County, and the American River Conservancy. We would be pleased to explore opportunities to partner with the California Native Plant Society, as well.

With respect to the matter at hand, EID has carefully evaluated the EID Relocation of Water Rights project in meeting its CEQA obligations. Although the project's potential impact on rare plants was somewhat speculative, EID took a conservative approach by identifying and then eliminating the impact by imposing a mitigation measure that restricts the authorized place of use for this water supply to EID's existing Service Area. Although additional mitigation is not required for this Relocation of Water Rights project, EID's sustained, significant, and ongoing contributions toward establishing and managing the preserve should be recognized.

In fact, those contributions *were* recognized in a November 22, 2002 letter to our Board of Directors from Alan Ehrgott, Executive Director and Debi Drake-Maurer, President of the American River Conservancy. (We hereby incorporate that letter by reference into the record of proceedings for this action.) In that letter, they said that the Board of Directors of ARC "feels compelled to make the following statement: The American River Conservancy has found that the El Dorado Irrigation District has been a full and cooperative partner in the formation and management of the Pine Hill Preserve System. The Conservancy has not or will not use any decision made by EID regarding the funding of rare plant acquisitions as a reason to oppose any EID claim to water from Folsom Lake."

Comments of State Water Resources Control Board, Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000
Comments received May 26, 2005

The following are comments of the State Water Resources Control Board (SWRCB) and staff's responses to these comments.

Comment #1: The amount of water diverted under the pre-1914 rights must be accurately quantified to ensure that EID does not increase diversions, within the scope of this project. An increase in the amount of water diverted, beyond the original right, could initiate a new water right. Initiation of a new water right would require the filing of a new application to appropriate water. In addition, an increase in diversion could potentially impact instream beneficial uses, public trust resources, and downstream water right holders. Pursuant to CEQA, EID must disclose potential impacts caused by the project as a whole.

EID has submitted records to the Division for the pre-1914 diversions into Farmers Free Ditch and Gold Hill Ditch for water years 1996, 1997 and 1998. The Division does not have records of water use pertaining to these diversions prior to 1996. EID has submitted records regarding the Summerfield Ditch diversion from 1994 to 1998. Prior to 1994, the Division does not have records of this diversion.

Regarding the pre-1914 rights, EID must show continuous use of the water diverted. If, from 1914 to the present, water was not used for a period of five years, the water right may be lost, pursuant to Water Code section 1241. If, after 1914, the water use diminished for a period of at least five years, part of the water right may be lost. EID has not shown that the water use has been justified by a continuous demand for the water or that there has been continuous water use since 1914.

EID has not provided the Division with enough information to substantiate the claim of pre-1914 water rights. Division staff requests that EID submit detailed information for proof of the nature of the claimed rights, when they were perfected and for what amounts, purposes, and diversion seasons. In addition, the information should include proof that the rights had been maintained through continuous diversion and use.

The proposed diversions from Folsom Lake under a pre-1914 claim cannot exceed the available water from the stream, as it was diverted under the pre-1914 rights. Under this project, the rate of diversion and season of diversion must mirror the rate and season of diversion of the pre-1914 claims. The diversion season cannot be changed under pre-1914 rights after the right is initiated.

Response #1: The portion of the project before the SWRCB – a Petition for Change of the place of use, point of rediversion, and purpose of use for Weber Reservoir's water rights -- does not involve the pre-1914 water rights that are the subject of this comment. In a June 2, 2005 meeting with SWRCB staff and counsel, the SWRCB clarified that this comment was made by the SWRCB as a CEQA responsible agency commenting on matters within its area of expertise, but is not intended as a criticism of the substantive adequacy of the MND.

As documented in the MND, EID does not believe that the changes to the pre-1914 water rights have adverse environmental effects. EID intends to divert the same amount of pre-1914 water from Folsom Lake at the same season it was previously diverted for the ditches, and as it has been diverted under a series of three one-year Warren Act contracts with the USBR. The USBR is the only water rights holder whose rights and environmental obligations within and downstream of Folsom Reservoir could be affected by the proposed project. On May 11, 2004, EID submitted a proposal and exhibits in support of the proposal to the USBR for this project's long-term Warren Act contract. The May 11, 2004 proposal and exhibits provide the information requested by the SWRCB and we hereby incorporate them by reference into the record of proceedings for this action. In addition, EID will send the SWRCB a copy of the May 11, 2004 proposal to the USBR. The Compliance Division of SWRCB staff will independently determine whether the SWRCB, in its investigatory role, will require EID to provide additional information regarding these pre-1914 water rights.

Comment #2: The Bureau of Reclamation has indicated, per letter dated March 25, 2005, that EID will measure the releases from Weber Reservoir to confirm the amount of water available for rediversion at Folsom Lake. Division staff requests that these conditions be included as mitigation measures in the CEQA document. In addition, Division staff requests that EID explain how they will monitor creek flows to ensure that diversions from Folsom Lake do not exceed what was taken at the original points of diversion, under the pre-1914 rights. EID should also explain how they intend to comply with this monitoring plan.

Response #2: **Water storage and flow measuring gages are a part of EID's project and have already been installed at Weber Dam, as described at page 12, 13, and 14 of the MND. In a letter to the SWRCB dated February 25, 2005, the USBR requested that the SWRCB include a requirement for EID to undertake a program to measure releases from Weber Reservoir and to determine the losses of such releases between Weber Reservoir and Folsom Dam. (We hereby incorporate this letter by reference into the record of proceedings for this action.) In the June 2, 2005 meeting with SWRCB staff and counsel, EID agreed to send a letter to the SWRCB formally concurring with USBR's request, which the SWRCB believes will give it the authority to satisfy USBR's request.**

Comment #3: With regard to potential impacts to sensitive plant species, Division staff notes that, pursuant to Order 2001-22, EID shall cooperate with El Dorado County in establishing preserve sites for eight sensitive plant species and their habitats. In your response to this letter, EID should explain how the mitigation measure, as described in the IS, relates to compliance with this Order.

Response #3: **Please see responses to CNPS comments.**

Comment #4: Division staff requests that EID submit a response to this CEQA comment letter.

Response #4: **In addition to transmitting a copy of the May 11, 2004 Warren Act contract proposal and the concurrence letter described in Response #2 above, EID will transmit a copy of its responses to the CNPS and SWRCB comments to the SWRCB. In the June 2,**

2005 meeting with SWRCB staff and counsel, the SWRCB clarified that CEQA does not require any additional responses from EID.

El Dorado Irrigation District

S14967

In reply refer to: L1005-053

June 3, 2005

Katherine Mrowka
State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000

Re: Petition to Change Point of Diversion, Place of Use, and Purpose of Use for License 2184 (A 01692) – Our Meeting of June 2, 2005

Dear Ms. Mrowka:

Thanks again to you, Ms. Sheely and Ms. Heinrich for meeting with Rob Donlan and me on such short notice yesterday. I would like to take this opportunity to summarize the District's understanding of the meeting's results, and also to transmit some information to you.

The primary purpose of the meeting was to discuss Ms. Sheely's letter of last week (copy attached), commenting on the District's Initial Study and proposed Mitigated Negative Declaration for our relocation of water rights project. As you know, this project encompasses not only the licensed water right referenced above, but also three pre-1914 water rights associated with the District's Summerfield, Gold Hill, and Farmers Free irrigation ditches.

In the meeting, SWRCB staff and counsel confirmed that the letters' comments and inquiries regarding the pre-1914 water rights were made pursuant to a CEQA responsible agency's authority to comment upon project activities that are within its area of expertise. (Pub. Resources Code § 21153(c); CEQA Guidelines § 15096(d).) Because the pre-1914 water rights are not related to the portion of the project over which the SWRCB will exercise approval authority (the Petition regarding License 2184), the letter's comments and inquiries on this point did not signify that the Initial Study and proposed Mitigated Negative Declaration was in any way insufficient for the SWRCB's use.

We explained to you that the District has had extensive communications with the United States Bureau of Reclamation regarding the scope of the pre-1914 water rights, in connection with three one-year Warren Act contracts used to exercise these rights in 2003, 2004, and 2005, and with the long-term contract the District seeks to implement its proposed project. The USBR's water rights and its environmental obligations within and downstream of Folsom Reservoir are directly affected by the District's exercise of these water rights. Also, the USBR will be preparing an NEPA document on the proposed project prior to any action on a Warren Act contract. Therefore, we believe that the USBR's protection of its own interests and the public NEPA process will provide appropriate safeguards against any unauthorized use of water by the District under its pre-1914 water rights.

On May 11, 2004, we transmitted a detailed Proposal for Long-Term Warren Act Contract to USBR Regional Water Rights Officer John Renning, accompanied by many exhibits evidencing initiation, continuous use, amounts, purposes, diversion seasons, and similar water rights issues identified in the SWRCB's comment letter. At yesterday's meeting, the District agreed to incorporate this entire submittal into its record of proceedings for CEQA purposes.

Meanwhile, the SWRCB's Water Rights Compliance Division will make an independent determination whether or not to seek this or other additional information from the District by virtue of its authority to investigate pre-1914 water rights. After our meeting, Rob Donlan and I decided that it may assist the Compliance Division's decision-making process if the District provides the SWRCB with copies of the Proposal submitted to the USBR in May 2004. The Proposal addresses the issues raised in the SWRCB's comment letter and indicates what evidence the District has already submitted to the USBR to support its assertions. Therefore, a copy of the Proposal is enclosed for your information and use.

The SWRCB's comment letter also addressed the issue of measuring Weber Reservoir releases and consequent inflow to Folsom Reservoir. At yesterday's meeting, we agreed that the District would send a letter concurring in the USBR's February 25, 2005 request that the SWRCB impose certain conditions relevant to this issue on the SWRCB's approval of the District's Petition. By separate letter of even date, we have performed this promise. The SWRCB comment letter also requests that the District explain how it will measure flows. With respect to gaging at Weber Reservoir, please refer to pages 2 through 4 of the Weber Creek Flow and Restoration Plan, which is part of Attachment 1 to the Initial Study and proposed Mitigated Negative Declaration. With respect to Folsom inflows, we explained at our meeting the District's conceptual agreement with USBR to install a gage immediately upstream of the confluence of Weber Creek and the South Fork American River. That confluence is less than one mile upstream of Folsom Reservoir, with no intervening diversions.

Finally, the SWRCB's comment letter requested further information on the issue of the gabbro soils rare plants. In yesterday's meeting, we agreed to furnish the SWRCB with our responses to other comments on this topic submitted by the California Native Plant Society. By separate letter of even date, we have performed this promise, as well.

As you know, the District's Board will be considering approval of the proposed Mitigated Negative Declaration and the project itself on Monday, June 6. We agreed at yesterday's meeting that I will send Ms. Sheely documentation of the Board's actions as soon as they are available.

At yesterday's meeting you estimated that it would be two to three months before a draft order on the Petition could be prepared for internal circulation within the SWRCB. The District is eager to complete this process as soon as possible in order to demonstrate compliance with settlement conditions in *People v. EID* and to avoid delaying Warren Act contract negotiations with the USBR. Therefore, we would like to offer the cooperation of District staff and consultants to assist the SWRCB in expediting this matter, if it would be feasible and appropriate.

The District appreciates the spirit of cooperation that SWRCB staff and counsel have demonstrated throughout this process.

Very truly yours,

EL DORADO IRRIGATION DISTRICT

Thomas D. Cumpston
General Counsel

TDC:jh

Enclosure

cc: Robert Donlan, Esq. (w/o encl.)
Chris Word (w/o encl.)
David Witter (w/o encl.)
Megan Sheely, SWRCB (w/ encl.)
Dana Heinrich, Esq., SWRCB (w/ encl.)

State Water Resources Control Board

Division of Water Rights
1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
Mailing Address: P.O. Box 2000 ♦ Sacramento, California 95812-2000
FAX: 916.341.5400 ♦ www.waterrights.ca.gov

Alan C. Lloyd, Ph.D.
Agency Secretary

Arnold Schwarzenegger
Governor

In Reply Refer
to: 334:MAS:001692

Chris Word
El Dorado Irrigation District
2890 Mosquito Road
Placerville, CA 95667

Dear Mr. Word,

INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION FOR EL DORADO IRRIGATION DISTRICT (EID) RELOCATION OF WATER RIGHTS

Division of Water Rights (Division) staff have reviewed the Initial Study (IS) and Mitigated Negative Declaration for the EID relocation of water rights: Petition for Change of Point of Diversion, Place of Use, and Purpose of Use EID Project # 00006E, prepared on April 15, 2005. The project involves changes to License 2184 (Application 1692) and three pre-1914 appropriative water rights (pre-1914 rights) (Statements of Water Diversion and Use 14968, 14323, and 14967). The State Water Resources Control Board (State Water Board) is a responsible agency for this project, pursuant to the California Environmental Quality Act (CEQA). The following comments are primarily concerned with the extent and nature of the pre-1914 rights.

The amount of water diverted under the pre-1914 rights must be accurately quantified to ensure that EID does not increase diversions, within the scope of this project. An increase in the amount of water diverted, beyond the original right, could initiate a new water right. Initiation of a new water right would require the filing of a new application to appropriate water. In addition, an increase in diversion could potentially impact instream beneficial uses, public trust resources, and downstream water right holders. Pursuant to CEQA, EID must disclose potential impacts caused by the project as a whole.

EID has submitted records to the Division for the pre-1914 diversions into Farmers Free Ditch and Gold Hill Ditch for water years 1996, 1997 and 1998. The Division does not have records of water use pertaining to these diversions prior to 1996. EID has submitted records regarding the Summerfield Ditch diversion from 1994 to 1998. Prior to 1994, the Division does not have records of this diversion.

Regarding the pre-1914 rights, EID must show continuous use of the water diverted. If, from 1914 to the present, water was not used for a period of five years, the water right may be lost, pursuant to Water Code section 1241. If, after 1914, the water use diminished for a period of at least five years, part of the water right may be lost. EID has not shown that the water use has been justified by a continuous demand for the water or that there has been continuous water use since 1914.

EID has not provided the Division with enough information to substantiate the claim of pre-1914 water rights. Division staff requests that EID submit detailed information for proof of the nature of the claimed rights, when they were perfected and for what amounts, purposes, and diversion seasons. In addition, the information should include proof that the rights had been maintained through continuous diversion and use.

The proposed diversions from Folsom Lake under a pre-1914 claim cannot exceed the available water from the stream, as it was diverted under the pre-1914 rights. Under this project, the rate of diversion and season of diversion must mirror the rate and season of diversion of the pre-1914 claims. The diversion season cannot be changed under pre-1914 rights after the right is initiated.

The Bureau of Reclamation has indicated, per letter dated March 25, 2005, that EID will measure the releases from Weber Reservoir to confirm the amount of water available for rediversion at Folsom Lake. Division staff requests that these conditions be included as mitigation measures in the CEQA document. In addition, Division staff requests that EID explain how they will monitor creek flows to ensure that diversions from Folsom Lake do no not exceed what was taken at the original points of diversion, under the pre-1914 rights. EID should also explain how they intend to comply with this monitoring plan.

With regard to potential impacts to sensitive plant species, Division staff notes that, pursuant to Order 2001-22, EID shall cooperate with El Dorado County in establishing preserve sites for eight sensitive plant species and their habitats. In your response to this letter, EID should explain how the mitigation measure, as described in the IS, relates to compliance with this Order.

Division staff requests that EID submit a response to this CEQA comment letter. Questions concerning this letter may be directed to Megan Sheely at (916) 341-5438 or msheely@waterboards.ca.gov.

Sincerely,

Megan Sheely
Environmental Scientist
Watershed Unit #3

MASheely:mas/xrivera:5-26-05
U:\PERDRV\MSheely\A001692 EID letter.doc

United States Department of the Interior

BUREAU OF RECLAMATION
Mid-Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825-1898

IN REPLY
REFER TO:

FEB 2 5 2005

MP-440
WTR-4.10

Ms. Victoria Whitney
Chief, Division of Water Rights
Attention: Ms. Katherine Mrowka
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812-2000

Subject: Notice of Petition to Change Point of Diversion, Place of Use and Purpose of Use – License 2184 (Application 1692) – El Dorado Irrigation District

Dear Ms. Whitney:

The Bureau of Reclamation is in receipt of the Notice of Petition to Change Point of Diversion, Place of Use and Purpose of Use filed by El Dorado Irrigation District (EID) under License 2184 (Application 1692, Permit 1053). EID currently diverts water from Weber Creek tributary to the South Fork of the American River and Folsom Lake for storage at Weber Reservoir in El Dorado County. EID uses the water for irrigation purposes within their service area, as it existed in 1927. The State Water Resources Control Board (SWRCB) must determine whether the license should be amended to add a new point of rediversion and include additional places and purposes of use.

Reclamation requests that the SWRCB include the following two conditions in Water Right License 2184 (Application 1692) as part of its order approving this petition:

1. The use of Folsom Dam and Reservoir to redivert water under this water right shall be subject to the terms and conditions of a contract between the United States and EID for that use; and

2. EID, the licensee, will undertake a program to measure releases from Weber Reservoir and to determine the losses of such releases between Weber Reservoir and Folsom Dam.

Should you have any questions regarding this matter, please contact Ms. Marty Kaiser of the Water Rights staff at 916-978-5259 (TDD 916-978-5608).

Sincerely,

Donna E. Tegelman
Regional Resource Manager

cc: El Dorado Irrigation District
c/o Robert E. Donlan, Esquire
Ellison, Schneider & Harris
2015 H Street
Sacramento, CA 95814

El Dorado Irrigation District

In reply to: L1004-088

May 11, 2004

VIA HAND-DELIVERY

John A. Renning, Regional Water Rights Officer
United States Bureau of Reclamation
Mid-Pacific Region
2800 Cottage Way
Sacramento, CA 95825

Re: El Dorado Irrigation District's Application for Long-Term Warren Act Contract for Direction and Rediversion of Water at Folsom Lake – Pre-1914 Water Rights on Slab Creek (Summerfield Ditch), Hangtown Creek (Gold Hill Ditch), and Weber Creek (Farmers Free Ditch), and Rediversion of Water Released From Weber Reservoir Pursuant to SWRCB License No. 2184

Dear Mr. Renning:

Please find transmitted with this letter the following materials constituting the District's application for the long-term Warren Act Contract identified above:

- El Dorado Irrigation District's Proposal for Long-Term Warren Act Contract for Direction and Rediversion of Water at Folsom Lake (31 pages)

- Exhibits in Support of EID's Warren Act Contract Proposal (binder containing 57 numbered exhibits).

As you know, this proposal has been discussed in meetings between Bureau and District personnel for several years, and it has been a priority for the District's General Counsel, Tom Cumpston and its Director of Water Policy Coordination and Special Projects, David Witter, in the past year. Also, most of these same water rights have been the subject of an executed one-year Warren Act Contract in 2003, and a pending one-year Warren Act Contract in 2004.

Based on the information needs you and your staff have previously expressed to us, we have attempted in the accompanying materials to anticipate and provide all information necessary for the Bureau to negotiate this contract with the District.

We recognize, of course, that our agencies must comply with the California Environmental Quality Act and the National Environmental Policy Act, respectively, and that the Bureau may need to pursue appropriate compliance procedures under the federal Endangered Species Act. We look forward to an active and fruitful partnership with the Bureau on these matters as the contracting process unfolds.

The District's objective is to have a long-term contract in place within a year from this submittal. Please do not hesitate to contact Mr. Cumpston or Mr. Witter at any time to enable us to assist the Bureau in meeting this timeline.

Sincerely,

EL DORADO IRRIGATION DISTRICT

Ane D. Deister
General Manager

TDC:ADD:pj

Enclosure

cc: Mike Finnegan, Area Manager (w/ encls., via hand-delivery)
Kay Moore (w/ proposal, via hand-delivery)
Emmett Cartier (w/ proposal, via hand-delivery)
EID Board (w/ proposal)
David Witter, Director of Water Policy Coordination (w/ encls.)
Thomas D. Cumpston, General Counsel (w/ encls.)
Dr. Steve Setoodeh, Director of Environmental Compliance (w/ proposal)
Dave Powell, Director of Facilities Management (w/ proposal)
Brian Mueller, Drinking Water Division Co-Head (w/ proposal)
G. Lynn Thorpe, Esq., Deputy Attorney General (w/ proposal)

EL DORADO IRRIGATION DISTRICT'S PROPOSAL FOR WARREN ACT CONTRACT FOR DIVERSION AND REDIVERSION OF WATER AT FOLSOM LAKE

Pre-1914 Water Rights on Slab Creek (Summerfield Ditch), Hangtown Creek (Gold Hill Ditch), and Weber Creek (Farmers Free Ditch), and Rediversion of Water Released from Weber Reservoir Pursuant to SWRCB License No. 2184

Submitted to the United States Bureau of Reclamation
May 11, 2004

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I. Project Description

The El Dorado Irrigation District (EID) is seeking a long-term contract from the United States Bureau of Reclamation (USBR) pursuant to 43 U.S.C. § 523 (commonly known as the Warren Act) for the purpose of using Folsom Reservoir to convey EID's water to EID's Folsom Lake intake and the El Dorado Hills Water Treatment Plant (WTP) for treatment and delivery to the El Dorado Hills area. The water that EID seeks to convey to the WTP falls into two categories. The first is water that EID would otherwise be entitled to divert from Slab Creek, Hangtown Creek, and Weber Creek (collectively, "Creeks") under pre-1914 appropriative water rights. These three creeks are tributary to the South Fork of the American River (SFAR), upstream of Folsom Reservoir. **(Exhibit 1).** In addition to changes in point of diversion to these pre-1914 water rights, the second category of water EID seeks to convey is water stored in and released from Weber Reservoir under a licensed, post-1914 water right. The purpose of this change is to implement an Operational Agreement with the State of California Department of Fish & Game. This released water would also be diverted at EID's Folsom Lake intake for delivery to the WTP.

The information contained in this report is responsive to the questions raised by the USBR during the meeting between EID and the USBR on May 29, 2003 and subsequently, and is intended to provide the USBR with sufficient information to enter into a long-term Warren Act contract consistent with the Reclamation Laws and USBR policies. Enclosed herewith is a proposed long-term Warren Act contract between the USBR and EID. **(Exhibit 2).**

A. Purpose and Need for Changes

There are a number of reasons for EID's request for a long-term Warren Act contract to allow diversion of flows from the Creeks at Folsom Lake. First, there is a demonstrated need for additional water supplies to serve EID's greatest growth area in and around El Dorado Hills. EID's primary source of supply for the El Dorado Hills area is a Central Valley Project (CVP) water service contract with the USBR (No. 14-06-200-1357A). This contract entitles EID to 7,550 acre feet per annum from Folsom Lake, but

is subject to reductions for shortages in certain years. Although EID can and does deliver additional supplies to El Dorado Hills from other sources to the east, infrastructure constraints limit the amount of alternative, additional supplies that can be delivered in this fashion. For 2003, EID calculated its potential potable water demand for the El Dorado Hills Region to be approximately 9,400 acre feet, which means the CVP contract alone is insufficient to meet active, latent, and other system demands in this area. Growth projections show that even in the absence of a County General Plan, actual residential and commercial demand will rise to approximately 15,860 acre feet annually by the year 2025.[1] As part of EID's strategy to address this imbalance, EID and the USBR entered into one-year Warren Act contracts in 2001, 2002 and 2003 to allow EID to divert various pre-1914 water rights, including the Creeks, at Folsom Lake. The 2003 contract and related application materials are attached as **Exhibit 3.** In addition, EID and the USBR entered into one-year surplus "spill water" contracts in 2002 and 2003.

EID also has received Permit 21112 from the State Water Resource Control Board (SWRCB) to take at Folsom Reservoir water made available by the operations of EID's hydroelectric Project 184 in the watershed of the South Fork of the American River (SFAR). This additional source of supply, commonly known as "Project 184," will result in up to 17,000 acre-feet annually of additional supplies for western El Dorado County. EID is separately seeking a Warren Act contract for Permit 21112 supplies.

A long-term Warren Act contract for diversion of ditch rights at Folsom Lake also represents a key element of EID's water supply planning and ongoing water conservation program. During the past several years, EID has connected existing ditch water users to EID's piped water system, which utilizes water from other sources within EID's water supply system. The purpose of connecting these customers to the piped water system is to allow EID to cease diversion from the creeks into the Summerfield Ditch system (Slab Creek), the Gold Hill Ditch system (Hangtown Creek) and the Farmers Free Ditch system (Weber Creek and Weber Reservoir). These three ditch systems were originally constructed in the 1800's, and conveyed water great distances from the Creeks to relatively small and dwindling user groups in El Dorado County.

[1] This additional demand represents development projects with vested development rights to proceed. These projects are authorized to develop under express provisions of the judicial Writ of Mandate that has governed El Dorado County land use since the General Plan was invalidated in 1999.

Significant portions of the ditches are located in remote areas, and the ditches are expensive and difficult to access and maintain. There also are significant conveyance losses in these ditches resulting from evaporation and seepage. **(See, e.g., Exhibit 23)** These losses reduce the amount of water available for other beneficial uses in the American River system. A long-term Warren Act contract allowing diversion of Creek flows at Folsom Lake would result in significant operation and maintenance cost savings to EID, and substantial water savings to EID and other water users from the American River watershed, including the USBR. Because the points of diversion would move downstream, and EID proposes to account for conveyance losses and any tailwater and return flows, no legal user of water or instream beneficial use will be injured.

B. Proposed Operational Changes

The proposed Warren Act contract would allow EID to divert or redivert at Folsom Lake water that originates in the Creeks and that would otherwise be available for diversion by EID under the four distinct water rights discussed above. EID's proposed operational changes are briefly described below. A more detailed explanation is provided in Section II. The proposed operational changes do not include or require an expansion of EID's Folsom diversion capacity or the El Dorado Hills WTP, and only the Weber Reservoir changes require SWRCB approval.

1. Slab Creek and the Summerfield Ditch

This diversion is documented in Statement of Water Diversion and Use No. 14323 (S-14323), on file with the SWRCB. **(See Exhibit 33)** The diversion is out of the west side of Slab Creek, into the mouth of the Summerfield Ditch, in a remote area of Forest Service land in Section 28, Township 12 North, Range 12 East, Mount Diablo Baseline and Meridian.[2]

Prior to the 1999 diversion season, annual diversions at the Summerfield Ditch typically began on March 1, at a rate of 12 cubic feet per second (cfs). For approximately a month, these diversions would be used to "charge" the 21.7-mile ditch to prepare it for

[2] With regard to the operational description that follows, **see Exhibit 32.**

deliveries, which commenced April 1. Water conveyed through the ditch before April 1 was used to fill Finnon Reservoir, which is the terminus of the ditch.

Diversions continued at 12 cfs until flows in Slab Creek receded to less than that amount; diversions were then gradually reduced, capturing all available flows, until the diversion rate reached approximately seven cfs. When water available for diversion was less than seven cfs, deliveries to the lower end of the ditch would cease, but EID would continue to divert and deliver water to upper-ditch customers until creek flows diminished to four cfs.[3] At that point, EID would cease diversions for the year and allow all flow to remain in Slab Creek. Under these operations, diversions typically diminished to between six and eight cfs by July 15, then continued to diminish until they stabilized at about 5 cfs through the remainder of the summer months. Historically, diversions typically ceased entirely in September or October, when the creek flows dropped to 4 cfs. In drier years, diversions ceased as early as August 1.

The first mile of the Summerfield Ditch, beyond the point of diversion, is piped with a 15-inch PVC pipe. The remainder of the ditch is a combination of unlined earthen ditch, and piped segments (which over time replaced leaky, sinuous, or failure-prone reaches). The ditch capacity lessens over its 21-mile length, with a maximum delivery capacity of 0.50 cfs at the terminus at Finnon Reservoir (approximate capacity 320 acre-feet).

Water diverted from Slab Creek was used for irrigation and non-potable domestic uses in the Mosquito Community, and also was used to fill Finnon Reservoir. From 1854 to 1968, customers used the water for mining, irrigation, domestic, and other uses. After 1968, customers used the water for irrigation and non-domestic uses. Typical uses included permanent fruit and vine crops, irrigated pasture, stock watering, and fishing/recreation.

Because the ditch terminates at Finnon Reservoir, the only tailwater returning to the South Fork American River spills from Finnon. Finnon would not spill in every year, and even in spill years, spills were intermittent. Because local runoff to Finnon is negligible, and the capacity of the ditch into Finnon is 0.50 cfs, maximum spills, when

[3] Because of conveyance losses, EID could not effectively deliver water the entire length of the ditch when diversion rate at the headworks was less than seven cfs.

they did occur, were at a rate of 0.50 cfs or less. If they occurred at all, spills never occurred after July 15 and generally ended before that date.

Although Summerfield Ditch experienced high conveyance losses, those losses did not return to the South Fork except in small amounts. The entire first mile of the ditch is piped, with no measurable conveyance losses. The Ditch alignment diverges from the Slab Creek channel both laterally and vertically during that mile. **(Exhibit 1 topographic map)** Conveyance losses evaporated, were consumed by phreatophytes (much of the upper Ditch runs through densely wooded forest), or ran into the ground. There was never noticeable runoff below the ditch to Slab Creek, except some seepage at Deer View, Long Canyon, and a few other places.

The linear distance along the Ditch between the point of diversion on Slab Creek and Finnon Reservoir is approximately 21.7 miles. As a result of EID's system-wide water conservation program, EID has not diverted at the headworks of the Summerfield Ditch since the end of the 1998 irrigation season.[4] After 1998 and until 2003, EID continued to maintain and use the last three miles of the Ditch to convey water from an EID well to some customers. EID currently supplies water to all former users along the Summerfield Ditch (except Finnon Reservoir) through EID's piped water system.

In May, 2003, the USBR approved an amendment to one-year Warren Act Contract No. 03-WC-20-2240, which allowed EID to divert up to 1,574 acre-feet of the pre-1914 ditch water at Folsom Reservoir between June 1 and October 15. Although the amended Contract does not allocate this quantity among the three water rights, EID's application materials show that 921 acre-feet was flow associated with the Summerfield Ditch right. **(Exhibit 3, Attachment E).**

Under the proposed long-term Warren Act Contract, EID would bypass all flow that was historically diverted into the Summerfield Ditch at Slab Creek. EID installed electronic measuring devices at the Summerfield Ditch prior to the 2003 diversion season to measure real-time diversion rates at the Summerfield Ditch. These measuring devices

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[4] The only exception to this statement is that in 2003, in conjunction with its short-term Warren Act contract, EID diverted water at the headworks and measured the diversions with a real-time, USGS-standard measuring device, turned the water back into Slab Creek about 100 yards downstream, then measured total streamflow with another real-time, USGS-standard measuring device. The purpose of this operation was to generate real data to substantiate the diversions and supplement synthetic hydrological data previously generated to quantify the water right. **(See Exhibit 31.)**

can be reinstalled annually or permanently, and will allow EID and the USBR to accurately quantify the amount and timing of flow bypassed at the Summerfield Ditch. These measurements can be timed with EID's proposed operations at the Folsom Lake pump station.[5]

Under the proposed long-term Warren Act contract, EID would commence diversion of Slab Creek flow at Folsom Lake on April 1 each year, at a rate of 10.2 cfs – i.e., 12 cfs less 15% for stream losses between the Summerfield Ditch and Folsom Reservoir. If the flow available for diversion at the Summerfield Ditch is less than 12 cfs, EID will divert at Folsom at a rate equal to 85% of the flow rate that is available for diversion at the Summerfield Ditch ("recoverable flow rate"). EID will continue to divert the recoverable flow rate until flow the flow rate available for diversion at the Summerfield Ditch is less than 4 cfs, at which point EID will cease diversion of Slab Creek flow at Folsom Reservoir. As an alternative to this flow rate approach, EID's diversions at Folsom Lake could be quantified volumetrically based on water year type, with a defined season of diversion from Folsom Lake.

The purposes of use for this water right would be domestic, municipal, commercial, and industrial. The place of use would be identical to the place of use for EID's existing USBR water service contract 14-06-200-1357A. **(Exhibit 57 map)**

2. Hangtown Creek and the Gold Hill Ditch

This diversion is documented in Statement of Water Diversion and Use No. 14967 (S-14967), on file with the SWRCB (**See Exhibit 39**).[6] Prior to the 1999 diversion season, annual diversions from Hangtown Creek at the Gold Hill Ditch typically commenced in May, with the first deliveries on May 15. Total diversions were 15 cfs, made up of a combination of natural flows in Hangtown Creek and supplemental flows released into Hangtown Creek from EID's Main Ditch.[7] At the beginning of the season, Hangtown Creek's natural flow is typically 5 cfs, diminishing rapidly to 1 cfs by mid-

[5] For all water rights described herein, Folsom diversions would be offset up to 30 days from the arrival of the water at Folsom Reservoir.

[6] With regard to the operational description that follows, see **Exhibit 32**.

[7] The Main Ditch is supplied, in turn, by water diverted from the South Fork American River watershed through Project 184 facilities under pre-1914 rights. The proposal described herein does not contemplate changing the point of diversion of any pre-1914 Project 184 water rights to Folsom Lake.

June and 0.50 cfs by July 1. Hangtown Creek natural flows then stabilize and hold at about that rate through the October 15 conclusion of the irrigation season.

Gold Hill was and remains primarily an agricultural district. Ditch customers used the water to irrigate permanent crops such as orchards and vineyards, to irrigate annual crops such as hay, to irrigate pasture, and for stock- and general-use ponds, as well as for non-potable domestic purposes.

Gold Hill Ditch runs for a length of 4.5 miles. Near its terminus, it diverges into two branches. One branch terminates in ponds at Graham Ranch; the other in ponds on the Winje Ranch. Each ranch used the stored water for onsite pasture and orchard irrigation. Thus, there are no appreciable tailwater return flows to the South Fork American River.

Immediately below the diversion headworks, the diverted water enters a 700-foot siphon that initally parallels Hangtown Creek, then diverges to the north, crossing U.S. Highway 50 and Placerville Drive. The remainder of the facility is a combination of unlined earthen ditch and piped segments where seepage was significant. Aside from seepage estimated at one to two miner's inches (0.025-0.05 cfs) near Sleepy Hollow Road, conveyance losses did not return to Hangtown Creek or other South Fork tributaries; they evaporated, were taken up by phreatophytes or percolated into the ground. Thus, return flows from this ditch were negligible. **(See also Exhibit 1 topographic map)**

As a result of EID's system-wide water conservation program, diversions at the Gold Hill Ditch have not occurred since the end of the 1998 irrigation system, although portions of the ditch were used until 2000 to deliver water released from EID's piped system for certain customers. EID currently supplies water to the water users along the Gold Hill Ditch through EID's piped water system. In May, 2003, the USBR approved an amendment to one-year Warren Act Contract No. 03-WC-20-2240, which allows EID to divert up to 1,574 acre-feet of the pre-1914 ditch water at Folsom Reservoir between June 1 and October 15. Although the amended Contract does not allocate this quantity among the three water rights, EID's application materials show that 132 acre-feet was natural flow associated with the Gold Hill Ditch. **(Exhibit 3, Attachment E).**

Under the proposed long-term Warren Act Contract, EID would bypass all natural Hangtown Creek flow that was historically diverted at the Gold Hill Ditch. If required by the USBR, EID can install a real-time measuring device in Hangtown Creek at or near the historic diversion to document flows. As discussed in Section II, EID proposes to divert this water, less stream losses, at its Folsom Lake pump station. EID would commence diversions of Hangtown Creek flow at Folsom Lake on June 15 each year, beginning at a rate of 4.25 cfs – i.e., 5 cfs less 15% for stream losses between the Gold Hill Ditch and Folsom Reservoir. As the flow diminishes, EID would continue to divert the recoverable flow rate (85% of the actual flow) through November 15. As an alternative to this flow rate approach, EID's diversions at Folsom could be quantified volumetrically based on water year type, over the historically consistent season of diversion.

The purposes of use for this water right would be domestic, municipal, commercial, and industrial. The place of use would be identical to the place of use for EID's existing USBR water service contract 14-06-200-1357A. **(Exhibit 57 map)**

3. Weber Creek and the Farmers Free Ditch

This diversion is documented in Statement of Water Diversion and Use No. 14968 (S-14968), on file with the SWRCB (**See Exhibit 54**). The diversion point for the Ditch is on the south side of Weber Creek, about 100 yards upstream of the Highway 49 bridge crossing.[8]

Prior to the 2001diversion season, annual diversions at the Farmers Free Ditch typically commenced in May, with the first customer deliveries on May 15. The initial diversion rate at the head of the Ditch was typically 7 cfs, as limited by 12-inch PVC pipe in numerous sections of the Ditch. By July 1, Weber Reservoir upstream typically ceased to spill and diversions into the Ditch would continue at approximately 5 cfs, composed of a combination of Weber Creek natural flow (including substantial accretions below Weber Dam) and stored releases from Weber Reservoir. Approximately 0.5 cfs was bypassed voluntarily to maintain aquatic habitat downstream of the Ditch. Water deliveries continued to Ditch customers until October 15.

[8] With regard to the operational description that follows, **see Exhibit 32.**

Water diverted from Weber Creek at the Farmers Free Ditch was used for irrigation and non-potable domestic uses. Water was pumped or diverted by Ditch customers along the 5.5-mile Ditch. Overall, approximately one-third of the Ditch is piped; the rest is unlined earthen canal. Aside from 100 feet of open canal at the headworks, the first 3,000 feet is piped. This Ditch, however, closely parallels Weber Creek for about two miles below the diversion. Just downstream of where Forni Road crosses both the Ditch and Weber Creek, the Ditch had substantial leakage (approaching 1 cfs) that returned to Weber Creek. (**See Exhibit 1 topographic map**) Aside from this, conveyance losses were largely attributable to evaporation, and to seepage that did not result in return flows.

Below Forni Road, the Ditch diverges from Weber Creek and terminates in ponds located at the Sweeney Ranch, where the water was used for stock watering and to irrigate pasture. Later, these ponds became recreational amenities for a residential subdivision of the Sweeney Ranch. Therefore, no tailwater returned to the South Fork American River system. As its name implies, the Ditch served agricultural users, who employed it to irrigate pasture, permanent orchards, and annual crops, for stock watering, and for non-potable domestic purposes.

As a result of EID's system-wide water conservation program, the Ditch diversions have ceased in recent years; since July 31, 2000, EID has supplied water to the water users along the Farmers Free Ditch through EID's piped water system. In May, 2003, the USBR approved an amendment to one-year Warren Act Contract No. 03-WC-20-2240, which allows EID to divert up to 1,574 acre-feet of the pre-1914 ditch water at Folsom Reservoir between June 1 and October 15. Although the amended Contract does not allocate this quantity among the three water rights, EID's application materials show that 521 acre-feet was Weber Creek natural flow associated with the Farmers Free Ditch. **(Exhibit, 3 Attachment E).**

Under the proposed Warren Act contract, EID would bypass all natural flow that was historically diverted at the Farmers Free Ditch. Pursuant to an agreement with the State of California, EID has agreed to install flow measuring devices upstream and downstream of Weber Reservoir, and at Weber Dam. These devices will allow EID to measure natural flow in Weber Creek (except for the accretions between Weber Dam and

the Ditch diversion), as well as the quantity of flow released from storage at Weber Reservoir. As discussed in Section II, EID proposes to bypass this flow at the Farmers Free Ditch for diversion, less stream losses and other appropriate adjustments, at EID's Folsom Lake pump station. The installation of real-time flow measuring devices at Weber Reservoir will allow EID to time and measure diversions that would otherwise have occurred at the Farmers Free Ditch under historical operations. These measurements can be timed with EID's proposed operations at Folsom Lake.

Under the proposed long-term Warren Act contract, EID would commence diversion of Weber Creek flow at Folsom Lake on June 15 of each year, at a rate of 3.4 cfs – i.e., 5 cfs, less one cfs for return flows near the Forni Road crossing (described above), less 15% for stream losses between the Farmers Free Ditch and Folsom Reservoir. If the flow available for diversion at the Farmers Free Ditch is less than 5 cfs, EID would divert at Folsom at a rate equal to 85% of the adjusted flow rate that is available for diversion at the Farmers Free Ditch ("recoverable flow rate"). EID would continue to divert the recoverable flow rate until November 15 of each year, at which point EID will cease diversion of Weber Creek flow at Folsom Reservoir. As an alternative to this flow rate approach, EID's diversions at Folsom could be quantified volumetrically based on water year type, over the historically consistent season of diversion.

The purposes of use for this water right would be domestic, municipal, commercial, and industrial. The place of use would be identical to the place of use for EID's existing USBR water service contract 14-06-200-1357A. **(Exhibit 57 map)**

4. Weber Reservoir

EID currently diverts Weber Creek flows to storage at Weber Reservoir pursuant to SWRCB License No. 2184. **(See Exhibit 55)** In 1996, EID began a process to retrofit Weber Dam pursuant to orders from the California Division of Safety of Dams (DSOD) and the Federal Energy Regulatory Commission (FERC). This work was completed in January 2002, subsequent to the time that EID converted the Farmers Free Ditch customers to the piped water system as part of EID's comprehensive water conservation

program. EID therefore has most recently been operating Weber Reservoir for the benefit of fish and wildlife in Weber Creek.

SWRCB License No. 2184 allows EID to divert to storage up to 1,125 acre-feet per annum during the period extending from October 15 to May 15 of the following year. The authorized purpose of use is irrigation and incidental power (EID surrendered its power license in 1999), and the authorized place of use includes EID's service area as it existed in 1927 (this area does not include EID's El Dorado Hills service region).

Under EID's historical operations, water diverted to storage at Weber Reservoir during the winter and early spring of each year was later released and used to augment natural flows in Weber Creek for diversion at the Farmers Free Ditch.

In September, 2003, EID entered into an agreement with the State of California, acting through the California Attorney General's office, regarding the operations of Weber Reservoir ("Operations Agreement"). Contemporaneously, EID entered into a Memorandum of Understanding (MOU) with the California Department of Fish and Game, related to certain actions necessary to implement the Operations Agreement. **(Exhibit 5).** Through the Operations Agreement and the MOU, EID has committed to maintain a minimum instream flow in Weber Creek downstream of Weber Reservoir. The minimum instream flow is calculated based on inflow to Weber Reservoir. Inflow and instream flow releases will be documented with real-time measuring devices scheduled for installation in 2004.

The Operations Agreement contemplates rediversion of Weber Reservoir releases at EID's Folsom Lake pump station. The parties to the Operations Agreement recognized that, because Weber Reservoir must be operated consistent with SWRCB License No. 2184, a Change Order from the SWRCB would be required to (1) add Folsom Lake as an authorized point of rediversion; (2) add fish, wildlife, recreation, municipal and industrial uses as authorized purposes of use; and (3) add the place of use of EID's existing USBR water service contract 14-06-200-1357A as an authorized place of use. **(Exhibit 57 map)** The instream flow elements specified in the Operations Agreement are conditioned upon approval by the SWRCB. EID intends to file its Change Petition with the SWRCB before the end of 2004, and would prefer to have some form of understanding with the USBR on a long-term Warren Act contract prior to filing the Change Petition.

Under the proposed Warren Act contract, EID intends to release the minimum flows required in the Operations Plan, or such greater flows as may be required to deliver water for rediversion at Folsom Reservoir. The flow and storage measuring devices required in the Weber Reservoir Operations Agreement will allow EID and the USBR to accurately determine the amount and timing of flow released from Weber Reservoir for rediversion at Folsom Reservoir. As discussed in Section II, EID proposes to bypass water released from Weber Reservoir at the Farmers Free Ditch for diversion, less stream losses and other adjustments, at the Folsom Lake pump station.

The installation of real-time measuring devices in and around Weber Reservoir will allow EID to accurately measure the amount of water that would otherwise be available for diversion from Weber Reservoir or rediversion at the Farmers Free Ditch. The timing and amount of water that EID will release from storage at Weber Reservoir will vary from year to year, depending on the rate and timing of inflow. As noted above, EID has a pre-1914 water right to divert all natural flow in Weber Creek at the Farmers Free Ditch, up to 5 cfs, from April 1 to October 31 of each year. Water released from storage at Weber Reservoir is in addition to EID's pre-1914 water right at the Farmers Free Ditch. Weber Reservoir has a usable storage capacity of 1,045 acre feet (af), not including the dead pool storage of 80 af. The Weber Reservoir Operations Agreement requires EID to maintain a minimum of 200 af of usable storage in the late summer and fall so that a minimum of 1 cfs can be released from Weber Reservoir during those periods.

5. Folsom Reservoir Intake – El Dorado Hills Raw Water Pump Station

EID's El Dorado Hills Raw Water Pump Station is located on the shores of Folsom Lake in El Dorado Hills. The pump station delivers raw water to the El Dorado Hills Water Treatment Plant (EDHWTP) located approximately 1 mile south of the pump station.

The pump station consists of five submersible pumps, each housed at the bottom of 18-inch and 20-inch steel casings that extend down the embankment of Folsom Lake. In addition, four booster pumps are located on the site to boost the water to the EDHWTP via a 30-inch pipeline. The pump station has the capacity to pump a maximum flow rate

of 16 million gallons per day (mgd), or a constant average rate of approximately 24.7 cfs. The pump station also includes a building to house the booster pumps, electrical control equipment and instrumentation.

The raw water pump station and EDHWTP are currently being expanded in 2004 to a capacity of 19.5 mgd, or a constant average rate of approximately 31 cfs, by replacing and upsizing several raw water and finished water pumps.

The District is currently studying alternatives for future pumping and water treatment expansions to serve continuing demands in the El Dorado Hills and Western Regions up to a total capacity of 52 mgd.

The current 16 mgd capacity is sufficient to meet existing El Dorado Hills peak demands from EID's 7,550 acre-foot per year water supply contracts and other sources, such as the surplus water contracts and Warren Act Contracts entered into in 2001, 2002, and 2003. The 19.5 mgd capacity to be available in summer 2004 will provide sufficient capability for this proposed Warren Act contract, the existing water supply contract, and a portion of the Permit 21112 water supply for which EID is separately seeking a Warren Act contract.

II. EID Water Rights

A. Slab Creek - Summerfield Ditch

1. Background Information

The following information provides an overview and summary of the origination of EID's pre-1914 water right on Slab Creek at the Summerfield Ditch, and historical use of that right. This information has been provided to the USBR previously.

Priority/Origination:	**1854** use, **1889** recorded
Basis of Right:	Pre-1914 (Statement of Water Diversion and Use No. S014323)
Point of Diversion:	West side of Slab Creek at the mouth of the Summerfield Ditch (Section 28, T12N, R12E, M.D.B.)

Place of Use:	Mosquito Valley along the Summerfield Ditch (approximately 21 miles from mouth of Ditch on Slab Creek)
Purpose of Use:	1854-1968: Mining, irrigation, domestic and other uses Post-1968: Irrigation and non-domestic uses
Season of Diversion:	Irrigation season (approximately March through October)
Volume/Rate:	12 cfs
Historical Operations:	**1854 to 1968:** direct diversion of natural flow was available for diversion from Slab Creek, for irrigation and domestic uses. **Post-1968:** The Summerfield Ditch customers receive water from Slab Creek at the Summerfield Ditch, via direct diversion when natural flow is available, for irrigation and non-domestic uses.
Recent Use:	Since the end of the 1998 irrigation season, diversions have ceased due to high cost and water conservation purposes. Former ditch customers have been served by an EID well and EID's piped system.
Proposed Changes:	Add Folsom Reservoir as point of diversion under right. Add western half of EID's service area as place of use, and municipal, domestic, commercial, and industrial as purposes of use. SWRCB approval is not required, but a Warren Act Contract is necessary from the USBR.

2. Historical Summary

In 1854, James Summerfield completed a ditch from Slab Creek to Mosquito Valley, a distance of nearly 21 miles, to provide water for mining, irrigating, domestic and other uses. On May 25, 1889, Summerfield recorded the original water right with the El Dorado County Recorder for 500 miner's inches (12.5 cfs) from Slab Creek. On

November 13, 1905, Summerfield filed a subsequent Notice of Water Appropriation with the County Recorder, claiming 300 miner's inches (7.5 cfs) from Slab Creek and conveyed by the Summerfield Ditch.

In 1906, James Summerfield transferred his water rights to the Western States Gas and Electric Company so that the water could be used, in part, to fill Finnon Reservoir. Finnon was used as a start-up and back-up water supply needed by Western States for their hydroelectric generating site at the confluence of Rock Creek and the South Fork American River. Western States later was acquired by Pacific Gas & Electric Co. (PG&E).

In June 1939, PG&E, "for the sum of one dollar," conveyed to the Mosquito Ditch Mutual Water Company (MDMWC) all of PG&E's right, title and interest in and to the so-called Summerfield system. This MDMWC was formed by three farmers who thereafter owned, maintained and operated the Ditch to deliver water to the Mosquito Valley area. The transfer from PG&E included the Summerfield Ditch system, its water rights, and Finnon Reservoir.

In 1955, the MDMWC conveyed Finnon Reservoir to the California Department of Fish and Game, together with an entitlement to a portion of the water supplied by the Summerfield Ditch sufficient to maintain Finnon Reservoir at full elevations for recreational and fish culture uses. In 1999, Fish and Game quitclaimed Finnon to the Mosquito Volunteer Fire Department.

On September 30, 1990, the MDMWC conveyed to EID all rights in and to the Summerfield Ditch and its water rights. The recorded deed transfers all right, title and interest in the water rights and real property interests in and to Slab Creek and the Summerfield Ditch. In particular, it grants all right and title to the original water right recordings in May 31, 1889 and November 15, 1905.

The District continued to operate and maintain the Slab Creek diversion and the Summerfield Ditch until the end of the 1998 irrigation season. Since that time, due to the high operational costs in maintaining the Summerfield Ditch system, the remaining customers have been served from a groundwater well owned and operated by EID and by other EID supplies conveyed to the area via EID's Cross-Canyon Pipeline. In 2003, EID made agreements to discontinue well operations and supply all customers from the piped

system. Finnon Reservoir is not currently served because for several years it has been drawn below the Division of Safety of Dam jurisdictional limit because of unresolved dam safety issues. EID desires to protect its historic pre-1914 appropriative water rights with a long-term change in point of diversion, place of use, and purpose of use of its Slab Creek water right.

3. Historical Use

As noted above, until the 2003 diversion season, there were no measuring devices to precisely measure EID's diversions from Slab Creek at the Summerfield Ditch. EID also lacks continuous records of water deliveries to customers along the Ditch. Nevertheless, EID's historical diversion practices and water use are evidenced by documents dating back to the early 1900's. These documents substantiate EID's continual diversion and use of water from Slab Creek up through the 1998 irrigation season.

Attached as **Exhibits 6 through 11** are documents generally describing the history of the Summerfield Ditch, its ownership and chain of title. **Exhibits 12 through 22** include documents depicting EID's financial and labor investments in maintenance and repair of the Summerfield Ditch. **Exhibit 23** illustrates conveyance losses and needed conservation and other efficiency improvements on the Summerfield Ditch system. **Exhibits 24 through 30** include records of diversion from Slab Creek and records of deliveries to water users along the Summerfield Ditch. **Exhibit 31** reflects measured diversions and total Slab Creek flow during the 2003 diversion season, using measuring devices installed by EID. **(See footnote 4)** Water diverted and measured was turned back into Slab Creek after measurements were made.

Attached as **Exhibit 32** is a declaration from Ron Balderston, Ditch System Supervisor for EID. Mr. Balderston has operated the Summerfield Ditch almost continuously since 1972, and has more knowledge of the Summerfield Ditch than any other current EID employee. Mr. Balderston's Declaration provides an excellent first-hand account of EID's diversions and operations at the Summerfield Ditch. Attached as **Exhibit 33** is Statement of Water Diversion and Use ("Statement") No. 14323, which describes EID's diversions from Slab Creek at the Summerfield Ditch. Statement No.

14323 was first filed in 1995, and Supplemental Statements were filed in 1996, 1999, and 2002.

4. Quantification Methods and Future Monitoring

In 2003, EID installed real-time flow measuring devices at the headworks of the Summerfield Ditch and in Slab Creek about 100 yards downstream of the headworks. For the purpose of measuring historical flow rates, EID diverted water into the Ditch in accordance with historic practice, then returned the diverted water back into Slab Creek upstream of the second gage. This protocol allows EID to obtain both diversion and total flow data. **(Exhibit 31)**

A 1999 report prepared by EID consultants Fred McKain, CPE, and Jack Hannaford, P.E., analyzed the amount of flow in Slab Creek that would be available for diversion at Folsom Reservoir. **(Exhibit 34).** That report concluded that on long-term average, approximately 2,340 acre-feet would be available for diversion at Folsom Reservoir (assuming a 12 cfs diversion rate, an April 1 to October 15 diversion season, and a 15% instream conveyance loss).[9] The 1999 Report also calculates water available for diversion at Folsom in "dry years"[10] as approximately 1,740 acre-feet, using the same assumptions as above. A statistical "95% exceedence" criterion was also calculated, using the same assumptions, and the result was 1,250 acre-feet of diversion on long-term average. Each of these calculations also assumed a "diversion efficiency" of approximately 65% - 94%.

This somewhat inartfully named "diversion efficiency" adjustment factor is not a measure of conveyance losses, return flows, or the like. Rather, it was created to account for the daily variations in flow over the course of a month. Because flows tend to diminish to a greater or lesser extent over the course of a month, this factor discounts the diversion quantity, which assumes a constant flow, to avoid overestimation of historical diversions. **(Exhibit 34, Meyer email attachment)**

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[9] The USBR historically has assumed a 15% conveyance loss in the SFAR watershed. **(Exhibit 35).** These assumptions were used by Mr. McKain and Mr. Hannaford in preparing the 1999 Report.

[10] The 1999 Report assumes a "dry year" to be 1.5 million acre-feet or less total inflow to Folsom Lake, or 60% of the long-term average inflow.

In 2004, EID retained hydrologist Harold Meyer to review and critique the McKain/Hannaford data and methodology. Mr. Meyer has concluded that this prior work represents a professional and reasonable calculation, given the lack of actual historical gage data. **(Exhibit 34, Meyer email)** As such, EID submits it as an appropriate "starting point" for the proposed Warren Act Contract amount, to be adjusted according to actual gaged data to be collected in future years.

B. Hangtown Creek – Gold Hill Ditch

1. Background Information

The following information provides an overview and summary of the origination of EID's pre-1914 water right on Hangtown Creek on the Gold Hill Ditch, and historical use of that right. This information has been provided to the USBR previously.

Priority/Origination	1853
Basis of Right:	Pre-1914 (Statement of Water Diversion and Use No. S014967)
Point of Diversion	Gold Hill Ditch Diversion Dam SEl/4 SWl/4 Section 7, T10N, R11E, MDB
Place of Use:	Irrigated acreage along Gold Hill Ditch (approximately 8.5 miles from mouth of Ditch on Hangtown Creek)
Purpose of Use:	Irrigation and non-potable domestic uses
Season of Diversion:	May 15 - October 15
Volume/Rate:	5 cfs
Historical Operations:	**1853 to 1960's**: direct diversion of natural flow was available for diversion from Hangtown Creek, for irrigation and domestic uses. **Post -1960's**: the Gold Hill Ditch customers receive water from Hangtown Creek at the Gold Hill Ditch, via direct diversion when natural flow is available, and rediversion of

	water stored and released from the Main Ditch.
Recent Use:	In the past 4 years, diversions have ceased because Ditch customers have connected to EID's piped water system
Proposed Changes:	Add Folsom Reservoir as point of diversion under right. Add western half of EID service area as place of use. Add municipal, domestic, commercial, and industrial as purposes of use. SWRCB approval is not required, but a Warren Act Contract is necessary.

2. Historical Summary

Articles of incorporation of the Gold Hill Canal Company were filed with the El Dorado County Clerk on October 1, 1853. The object was to furnish water to the miners about Gold Hill and for mining and irrigation purposes in the entire region lying between Weber Creek and the South Fork American River. Sometime before 1873, this ditch came into the possession of Kirk and Bishop, developers of the eventual Project 184 water rights. Their properties and rights were acquired by the El Dorado Water and Deep Gravel Mining Company in 1873. After several more transfers, the entirety of these properties and rights including the ditch, were acquired by the Placerville Gold Mining Company in 1916. In December 1916, the properties and rights were transferred to the Western States Gas and Electric Company. Following a 1918 Railroad Commission decision, all properties and rights below the 14-Mile Tunnel were purchased by the El Dorado Water Company in April 1919. In February 1922, the water company incorporated to build Weber Dam. In April 1927, the El Dorado Irrigation District purchased the El Dorado Water Corporation, including the Gold Hill Ditch. Water was last diverted from Hangtown Creek in July 1998.

Until the 1960's, water was used for irrigation as well as domestic purposes. With completion of EID's treatment plants and piped systems, domestic customers "came off" of the ditch. Irrigation diversions continued into the 1990's. In the mid-1990's, the operation of the Gold Hill Ditch was costly and an inefficient method of delivering water. Gradually, the District paid to get irrigation customers onto EID's piped system. In July

1998, diversions to the ditch were terminated. The few remaining ditch customers were served by "blow offs" from the piped system into the ditch, until the last customer came off the ditch in 2000.

EID changed the point of diversion for these pre-1914 rights to Folsom Lake in 2003 under a one-year Warren Act Contract with the USBR. Now, a permanent change is desired.

3. Historical Use

No measuring devices have precisely measured EID's diversions from Hangtown Creek at the Gold Hill Ditch. EID also lacks continuous records of water deliveries to customers along the Ditch. Nevertheless, EID's historical diversion practices and water use are evidenced by documents dating back to the early 1900's. These documents substantiate EID's continual diversion and use of water from Hangtown Creek up through the 1998 diversion season.

Attached as **Exhibit 11** is a document which generally describes the history of the Gold Hill Ditch, its ownership and chain of title. **Exhibits 17, 19 and 20** include documents depicting EID's financial and labor investments in maintenance and repair of the Gold Hill Ditch. **Exhibit 23** illustrates conservation and efficiency improvements on the Gold Hill Ditch system. **Exhibits 25, 29, 30 and 36-38** include records of diversion from Hangtown Creek and records of deliveries to water users along the Gold Hill Ditch.

Attached as **Exhibit 32** is a declaration from Ron Balderston, Ditch System Supervisor for EID. Mr. Balderston has operated the Gold Hill Ditch almost continously since 1972, and has more knowledge of the Ditch than any other current EID employee. Mr. Balderston's Declaration provides an excellent first hand account of EID's diversions and operations at the Gold Hill Ditch. Attached as **Exhibit 39** is Statement No. 14967, which describes EID's diversions from Hangtown Creek at the Gold Hill Ditch. Statement No. 14967 was first filed in 1998, and Supplemental Statements were filed in 1999 and 2002.

4. Quantification Methods and Future Monitoring

If required by the USBR, EID will install and maintain a real-time measuring device for Hangtown Creek at or near the historic diversion point. EID no longer

supplements flows in Hangtown Creek, so the monitoring device will measure natural flow.

A 1999 report prepared by EID consultants Fred McKain, CPE, and Jack Hannaford, P.E., analyzed the amount of flow in Hangtown Creek that would be available for diversion at Folsom Reservoir. **(Exhibit 34).** That report concluded that on long-term average, approximately 444 acre-feet would be available for diversion at Folsom Reservoir (assuming a 5 cfs diversion rate, an April 1 to October 15 diversion season, and a 15% instream conveyance loss). The 1999 Report also calculates water available for diversion at Folsom in "dry years" as approximately 347 acre-feet, using the same assumptions as above. A statistical "95% exceedence" criterion was also calculated, using the same assumptions, and the result was 175 acre-feet of diversion on long-term average. Each of these calculations also assumed a "diversion efficiency" of approximately 65% - 94%.

This somewhat inartfully named "diversion efficiency" adjustment factor is not a measure of conveyance losses, return flows, or the like. Rather, it was created to account for the daily variations in flow over the course of a month. Because flows tend to diminish to a greater or lesser extent over the course of a month, this factor discounts the diversion quantity, which assumes a constant flow, to avoid overestimation of historical diversions. **(Exhibit 34, Meyer email attachment)**

In 2004, EID retained hydrologist Harold Meyer to review and critique the McKain/Hannaford data and methodology. Mr. Meyer has concluded that this prior work represents a professional and reasonable calculation, given the lack of actual historical gage data. **(Exhibit 34, Meyer email)** As such, EID submits it as an appropriate "starting point" for the proposed Warren Act Contract amount, to be adjusted according to actual gaged data to be collected in future years.

C. Weber Creek – Farmer's Free Ditch

1. Background Information

The following information provides an overview and summary of the origination of EID's pre-1914 water right on Weber Creek at the Farmers Free Ditch, and historical use of that right. This information has been provided to the USBR previously.

Priority/Origination:	1873 (sometimes noted as 1855)
Basis of Right:	Pre -1914 (Statement of Water Diversion and Use No. 14968)
Point of Diversion:	Upstream of Weber Creek/Highway 49 crossing, near Diamond Springs, at the mouth of the Farmers Free Ditch (SE ¼ of NW1/4, Sect.19, T10N, R11E, MDB&M)
Place of Use:	Irrigated acreage along Farmers Free Ditch (approximately 6.1 miles from mouth of Ditch on Weber Creek)
Purpose of Use:	Irrigation and non-potable domestic uses
Season of Diversion:	Irrigation season (approximately April through October)
Volume/Rate:	7 cfs
Historical Operations:	**1870's to 1930's:** direct diversion of natural flow was available for diversion from Weber Creek, for irrigation uses. **1930's to 1950's** diversion of natural flow during "non-irrigation" season; EID exercised right at the New Weber Ditch at Weber Reservoir during "irrigation season," and delivered water to agricultural customers in the Gold Hill and Placerville areas; the Farmers Free Ditch customers received water from EID's other water sources, through the Missouri Flat Ditch. **1950's to present:** the Farmers Free Ditch customers receive water from Weber Creek at the Farmers Free Ditch, via direct diversion when natural flow is available, and rediversion of water stored and released from Weber Reservoir.
Recent Use:	While Weber Reservoir was under reconstruction, there was direct diversion of natural flow only. In past 3 - 4 years, diversions have ceased because Ditch

	customers have connected to EID's piped water system.
Proposed Changes:	Add Folsom Reservoir as point of diversion under right, to allow EID to coordinate operation of Weber Reservoir for rediversion at Folsom, consistent with the proposed operations agreement with the State of California. Add the western half of EID's service area as place of use. Add fish and wildlife, recreation, domestic, municipal, commercial, and industrial as purposes of use. SWRCB approval is not required, but a Warren Act Contract is necessary.

2. Historical Summary

The Farmers Free Ditch (sometimes referred to as the Weber Creek Ditch, the Missouri Flat Farmer's Free Ditch, or the Missouri Flat Farmer's Extension Line, and sometimes mistakenly referred to as the Missouri Flat Ditch) was likely constructed sometime between 1870 and 1873. At this time, the water right appeared to belong to the Eureka Canal Company. According to James R. Sweeney, land surveys completed in June of 1870 did not identify a Ditch crossing for the Farmers Free Ditch. Conveyance documents dated November 1873 and February 1874, however, identified a ditch "commencing at a point on Weber Creek about one hundred yards below Morrells Bridge running thence in a Westerly direction to Missouri Flat Mud Springs Township El Dorado County, a distance of six miles more or less, and known as the Weber Creek Ditch." According to Sweeney and Jean E. Starns, this description accurately describes the present point of diversion for the Farmers Free Ditch (i.e., just upstream of the current Highway 49 bridge near Diamond Valley).

In a sheriff's sale in 1873, the Eureka Canal Company sold to Henry Miller all of its assets, including the Farmers Free Ditch and water rights. In 1874, Henry Miller sold the Farmers Free Ditch and water rights to a group of landowners. There were many partial conveyances of the Farmers Free Ditch during the following decades. At some point prior to 1920, however, the owners of the Farmers Free Ditch organized themselves as the Missouri Flat Ditch Association (MFDA). In 1920, the MFDA filed a protest to the

water right application for Weber Reservoir, filed with the State Water Resources Control Board's predecessor by the El Dorado Water Company, EID's predecessor. The "Missouri Flat Farmer's Ditch" is identified as a downstream water right claimant in El Dorado Water Company's Application No. 1692. The MFDA protest was resolved in 1921 as a result of an agreement by the El Dorado Water Company to operate Weber Reservoir to protect the MFDA's water right at the Farmers Free Ditch. The protest dismissal agreement also appears to have included an agreement from the El Dorado Water Company to supply the MFDA with 40 miner's inches of water during the irrigation season, in addition to any natural flow available under MFDA's water right.

EID acquired Weber Reservoir from the El Dorado Water Company in 1927. In 1930 EID entered into an agreement with the MFDA for the purchase, operation and maintenance of the Farmers Free Ditch and its attendant water rights.[11] EID was obligated to clean and maintain the Ditch, and was required to provide the MFDA with a minimum of 40 miner's inches of irrigation water during the irrigation season. The point of delivery was at approximately the mid-point on the Ditch, at the R. T. Cook place. The farmers were allowed to purchase additional water during the irrigation season when it was available. The farmers were to pay EID its normal water rates for all water delivered during the irrigation season, including the 40 miner's inches, but the Agreement allowed the farmers to use the Ditch for free during the non-irrigation season. (This is likely how the Farmers Free Ditch acquired its current name.)

The 1930 Agreement did not require EID to supply irrigation season water to Farmers Free Ditch customers from Weber Creek. Until the 1950's, in fact, the 40 miner's inches were typically supplied from EID's Missouri Flat Ditch, which ran above and parallel to the Farmers Free Ditch.[12] The Missouri Flat Ditch carried water from various sources, including the Crawford and Diamond Ditches (North Fork Cosumnes) and the South Fork Canal Extension (South Fork American River). EID would spill water at turn out of the Missouri Flat Ditch at a point just up-ditch from the R. T. Cook place,

[11] The 1930 Agreement actually references the Missouri Flat Ditch, but otherwise appears to describe the Farmers Free Ditch. Although there is a separate ditch in the vicinity of the Farmers Free Ditch known as the Missouri Flat Ditch, from all accounts and circumstances, the parties to the 1930 Agreement clearly were referring to the Farmers Free Ditch.

[12] During the non-irrigation season, the MFDA farmers were allowed to use the Farmers Free Ditch for direct diversion from Weber Creek.

where the water could be discharged easily into the Farmers Free Ditch. Alternatively, EID could deliver water to the Farmers Free Ditch via the Missouri Flat Ditch by spilling it into a small ravine and ditch in the vicinity of Bray Reservoir, where it would drain into the Farmers Free Ditch. During this period, it appears that the water previously diverted by the MFDA at the Farmers Free Ditch was diverted by EID into its New Weber Ditch for delivery to the Gold Hill and Placerville areas.

Beginning in the 1950's, EID began connecting many of its customers on New Weber Ditch and the Missouri Flat Ditch to its main piped water system, and use of these ditches declined. As a result, EID had decreasing demand in the Gold Hill and Placerville areas for water from Weber Creek and Weber Reservoir, which freed up that water for other uses. Because EID's customers on the Missouri Flat Ditch were also decreasing, that Ditch became uneconomical to maintain and operate, and that Ditch was abandoned in the 1970's. During this transition period, EID increasingly met the MFDA's Farmers Free Ditch demands with diversions from Weber Creek, when natural flow was available. When natural flow was not sufficient to meet EID's delivery obligation, EID would release water from storage at Weber Reservoir for rediversion. Eventually, in the 1970's and early 1980's, all water supplied to Farmers Free Ditch was from Weber Creek natural flow and Weber Reservoir stored releases. This operation was continued until the mid-1990's.

In the mid-1990's, the California Department of Water Resources, Division of Safety of Dams (DSOD), and the Federal Energy Regulatory Commission (FERC) concluded that Weber Reservoir was unsafe. DSOD and FERC required EID to either retrofit the Dam to meet seismic and safety standards, lower the Dam to meet those standards, remove the Dam, or bypass all flow around the Dam. EID studied these options in 1996 and elected to retrofit the Dam to allow EID to continue storing water at the full Reservoir capacity. During the reconstruction period, EID was required to bypass all water above the minimum pool (approximately 80 acre-feet). EID continued to supply the Farmers Free Ditch with water during these years, although the inability to make storage releases meant that deliveries were discontinued earlier in the irrigation season. For this reason, many of the Farmers Free Ditch customers began connecting to EID's piped water system. Diversions into the Ditch ceased in 2000.

EID has entered into an agreement with the State for a release operation at Weber Reservoir to protect and enhance ecological resources in Weber Creek below the Reservoir. Because of the conversion of Farmers Free Ditch customers to EID's piped water system, neither Weber Creek nor Weber Reservoir is now needed for the Ditch. EID is proposing to add Folsom Lake as a point of diversion for its Farmers Free Ditch water right, and a point of rediversion for its Weber Reservoir water right. **(Exhibit 5).**

3. Historical Use

There currently are no measuring devices to precisely measure EID's diversions from Weber Creek at the Farmers Free Ditch. Pursuant to its Operations Agreement with the State of California, EID will in 2004 install measuring devices immediately upstream, downstream and in Weber Reservoir, which will allow EID to accurately measure flows in Weber Creek, except for accretions between Weber Dam and the Ditch headworks. EID lacks continuous records of water deliveries to customers along the Ditch. Nevertheless, EID's historical diversion practices and water use are evidenced by documents dating back to the early 1900's. These documents substantiate EID's continual diversion and use of water from Weber Creek up to the 2000 diversion season.

Attached as **Exhibits 11, 40 and 41** are documents generally describing the history of the Farmers Free Ditch, its ownership and chain of title. **Exhibits 42 through 50** include documents depicting EID's financial and labor investments in maintenance and repair of the Ditch. **Exhibit 23** illustrates conservation and efficiency improvements on the Farmers Free Ditch system. **Exhibits 25, 29, 30 and 51-53** include records of diversion from Weber Creek and records of deliveries to water users along the Farmers Free Ditch.

Attached as **Exhibit 32** is a declaration from Ron Balderston, Ditch System Supervisor for EID. Mr. Balderston has operated the Farmers Free Ditch almost continuously since 1972, and has more knowledge of the Farmers Free Ditch than any other current EID employee. Mr. Balderston's Declaration provides an excellent first-hand account of EID's diversions and operations at the Farmers Free Ditch.
Also attached as **Exhibit 32** is a declaration from Tom Cumpston, General Counsel for EID. Mr. Cumpston's declaration describes agreements recently reached with the State

of California and its Department of Fish and Game to maintain minimum flows below Weber Reservoir for aquatic life and habitat, and to install real-time measuring devices to verify those flows. The declaration explains how those agreements mesh with and aid in this application. Attached as **Exhibit 54** is Statement No. 14968, which describes EID's diversion of natural flow from Weber Creek at the Farmers Free Ditch. Statement No. 14323 was first filed in 1998, and Supplemental Statements were filed in 1999 and 2002.

4. Quantification Methods and Future Monitoring

The Weber Creek Flow and Restoration Plan agreed to with the State of California and its Department of Fish & Game requires the installation of real-time flow measuring devices in 2004. **(Exhibit 56)** These gages can be used to extrapolate flows at the Farmers Free Ditch diversion; however, adjustments will be necessary to account for significant accretions from the South Fork of Weber Creek between the two points.

A 1999 report prepared by EID consultants Fred McKain, CPE, and Jack Hannaford, P.E., analyzed the amount of flow in Weber Creek that would be available for diversion at Folsom Reservoir under EID's pre-1914 water right. **(Exhibit 34).** The Report included certain assumptions about the operations of Weber Reservoir, and deducted Weber Reservoir storage releases from the amount of water available for the diversion at Folsom Lake.

The 1999 Report concluded that on long-term average, approximately 1,150 acre-feet would be available for diversion at Folsom Reservoir under EID's pre-1914 water right at the Farmers Free Ditch (assuming a 7 cfs diversion rate, an April 1 to October 15 diversion season, and a 15% instream conveyance loss). The 1999 Report also calculates water available for diversion at Folsom in "dry years" as approximately 932 acre-feet, using the same assumptions as above. A statistical "95% exceedence" criterion was also calculated, using the same assumptions, and the result was 680 acre-feet of diversion on long-term average. Each of these calculations also assumed a "diversion efficiency" of approximately 65% - 94%.

This somewhat inartfully named "diversion efficiency" adjustment factor is not a measure of conveyance losses, return flows, or the like. Rather, it was created to account for the daily variations in flow over the course of a month. Because flows tend to

diminish to a greater or lesser extent over the course of a month, this factor discounts the diversion quantity, which assumes a constant flow, to avoid overestimation of historical diversions. **(Exhibit 34, Mayer email attachment)**

In 2004, EID retained hydrologist Harold Meyer to review and critique the McKain/Hannaford data and methodology. Mr. Meyer has concluded that this prior work represents a professional and reasonable calculation, given the lack of actual historical gage data. **(Exhibit 34, Meyer email)** As such, EID submits it as an appropriate "starting point" for the proposed Warren Act Contract amount, to be adjusted according to actual gaged data to be collected in future years.

D. Weber Creek – Weber Reservoir

1. Background Information

The following information provides an overview and summary of the origination of EID's pre-1914 water right on Weber Creek at the Farmers Free Ditch, and historical use of that right. This information has been provided to the USBR previously.

Priority:	February 27, 1920
Basis of Right:	Application 1692; Permit 1053; License 2184
Point of Diversion:	Weber Dam
Place of Use:	30,702 acres within boundary of EID as it existed in 1927
Purpose of Use:	Irrigation and Incidental Power (EID surrendered FERC license in 1999.)
Season of Diversion:	October 15 to May 15
Volume/Rate:	1,125 acre-feet per annum
Historical Operations:	EID begins storing water during the first precipitation events of the winter (after October 15), and diverts essentially all Weber Creek flows to storage until the Reservoir is filled. All releases are spills through the spillway until inflow is reduced to approximately 2 to 5 cfs. Releases have then been

	made through the outlet pipe at a sufficient rate for rediversion at the Farmers Free Ditch (2 to 5 cfs).
Proposed Changes:	Expand place of use to include western half of EID's service area as place of use. Add fish and wildlife, recreation, domestic, municipal, commercial and industrial as purposes of use. Add EID diversion and treatment plant at Folsom Reservoir as authorized point of diversion and rediversion. SWRCB approval is required, as is a Warren Act Contract with the Bureau of Reclamation.
Recent Use:	Pursuant to orders of the California Division of Safety of Dams, Weber Reservoir was out of commission in 1996 for a retrofit to ensure seismic safety and stability of Weber Dam. Construction of retrofit was completed, and Weber resumed storage operations, in January 2002.

2. Historical Use

The SWRCB issued License No. 2184 on March 15, 1941. **(Exhibit 55).** Because EID wanted to utilize discharge flows from Weber Dam to run a turbine generator, EID petitioned the SWRCB in 1984 to add incidental hydroelectric power generation as another authorized use under License No. 2184. The petition did not involve any changes to the licensed amount of water or to the season of use. The SWRCB granted EID's petition and issued an order which not only amended the license to allow the new use but also included protections for fish. **(Exhibit 55).**

In 1996, both FERC and DSOD deemed Weber Dam unsafe if subjected to an earthquake of a certain magnitude. Although EID completed the retrofit of Weber Dam, the reconstruction effort did not involve the hydroelectric facilities. Because of the difficulties and expense of operating a hydroelectric project, EID surrendered its FERC license. Weber Dam currently operates as a storage reservoir.

Throughout the history of License No. 2184, EID has been diligent in its reporting requirements to the SWRCB and has submitted Reports of Licensee for three year intervals. In September, 2003, EID submitted its licensee report for 2000-2002. **(Exhibit 55).**

3. Quantification Methods and Future Monitoring

As noted above, EID has entered into an agreement with the State of California which specifically defines the future operations at Weber Reservoir. The Agreement, which incorporates the "Weber Creek Flow and Restoration Plan," **(Exhibit 56)** requires EID to undertake the following activities:

- Maintain a minimum storage pool of 200 acre-feet to allow maintenance of a 1 cfs release throughout the year;
- Maintain a minimum instream flow throughout the year according to a specific formula, except as provided above;
- Maintain a specified ramping rate for Reservoir releases;
- Install streamflow gages upstream and downstream of Weber Reservoir, and a device to measure Reservoir elevations;
- Develop and implement guidelines for Reservoir operators;
- Establish and maintain a website for reporting Reservoir operations;
- Perform at least one "pulse flow" event, as defined and to the extent feasible; and
- Perform macroinvertebrate monitoring in Weber Creek downstream of Weber Reservoir.

SWRCB approval will be required to implement several elements of the Weber Creek Flow and Restoration Plan. In particular, EID will need to change the authorized places and purposes of use under License No. 2184, and will need to add Folsom Reservoir as a point of rediversion under the License. EID has prepared a draft Petition for Change **(Exhibit 5)**, which it intends to file by the end of 2004. EID would like to have some form of understanding or agreement with the USBR on a long-term Warren Act contract prior to filing its Petition for Change with the SWRCB.

III. Environmental Review

EID is currently analyzing the appropriate scope and level of environmental review required to execute a long-term Warren Act contract with the USBR. For purposes of compliance with the California Environmental Quality Act (CEQA), EID will be the lead agency. The USBR will need to comply with the National Environmental Policy Act (NEPA) prior to executing the long-term Warren Act contract. In previous conversations, the USBR has indicated that it will expect EID to prepare (or cause to be prepared) the appropriate NEPA document. **(Exhibit 57).** EID is presently evaluating the appropriate level of CEQA and NEPA environmental review.

D & E	This right was formerly used in conjunction with the Gold Hill Ditch for non-potable agricultural uses. All ditch customers have been converted to potable water supplies and the point of diversion in 2003 and 2004 was moved to Folsom Lake per Warren Act contracts with USBR. Purposes of use converted to wildlife enhancements upstream of Folsom, and domestic, municipal and industrial use. Place of use converted to El Dorado Hills are within District boundaries.
C	Contract amounts; actual deliveries at Folsom were 15% less to account for presumed conveyance loss.
F.1.b. and F.2.b	Reduction/substitution volumes are District-wide (excluding agricultural IMS program), and not attributable solely to this right.

State of California, State Water Resources Control Board
Division of Water Rights, P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 341-5300, FAX: (916) 341-5400, Web: http://www.waterrights.ca.gov

S014967%S%2001

1999, 2000, 2001

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE

If the information below is inaccurate, please line it out in red and provide current information.
Notify this office if ownership or address changes occur during the coming year.

***If the mail recipient's name, address or phone No. is wrong or missing, please correct.**

Owner of Record: EL DORADO IRRIGATION DISTRICT

PRIMARY CONTACT OR AGENT FOR MAIL & REPORTING:
EL DORADO IRRIGATION DISTRICT
2890 MOSQUITO RD
PLACERVILLE, CA 95667

STATEMENT NO.: S014967
CONTACT PHONE NO.: (530)622-4513

Source Name: HANGTOWN CREEK
Tributary To: WEBER CREEK
County: El Dorado
Diversion Within: SE1/4 of SW1/4 Section 07, T10N, R11E, MB&M

Year of First Use: 1852
Parcel Number:

A. Water is used under: Riparian claim _____ Pre 1914 right X Other (explain); _____

B. Year of first use (Please provide if missing above) _____

C. Amount of Use – Enter the amount (or the approximate amount) of water used each month.

Amounts below are: Gallons _____ Acre-feet X Other _____

Year	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Total Annual
1999	0	0	0	0	32.7	59.5	61.5	46.1	44.6	14.9	0	0	259.3
2000	0	0	0	0	0	0	0	0	0	0	0	0	0
2001	0	0	0	0	0	0	0	0	0	0	0	0	0

D. Purpose of Use - Specify number of acres irrigated, stock watered, persons served, etc.

Irrigation X acres; Stockwatering X ; Domestic None ;

Other (specify) _____

E. Changes in Method of Diversion – Describe any changes in your project since your previous statement was filed. (New pump, enlarged diversion dam, location of diversion, etc.)
Diversions were curtailed in years 2000 & 2001 - See over

F. Please answer only those questions below which are applicable to your project.

1. Conservation of water
   a. Are you now employing water conservation efforts? YES X NO ___
   Describe any water conservation efforts you have initiated: District Board adopted water conservation plan on March 23, 1988, updated 1/2001.

   b. If credit toward beneficial use of water under claimed pre 1914 appropriative water right for water not used due to a conservation effort is claimed under section 1011 of the Water Code, please show the amounts of water conserved:

   Reductions in Diversions:

   yr____ _____ (af/mg) yr____ _____ (af/mg) yr____ _____ (af/mg)

   Reductions in consumptive use:

   yr____ _____ (af/mg) yr____ _____ (af/mg) yr____ _____ (af/mg)

   I have data to support the above surface water use reductions due to conservation efforts. YES ___ NO ___

2. Water quality and wastewater reclamation

   a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility or water polluted by waste to a degree which unreasonably affects such water for other beneficial uses? YES _____ NO X.

   b. If credit toward use under a claimed pre 1914 appropriative water right through substitution of reclaimed water, desalinated water or polluted water in lieu of appropriated water is claimed under section 1010 of the Water Code, please show amounts of reduced diversions and amounts of reclaimed water used:

   yr_____ _____ (af/mg) yr_____ _____ (af/mg) yr_____ _____ (af/mg)
   I have data to support the above surface water use reductions due to wastewater reclamation. YES ___ NO ___

3. Conjunctive use of surface water and groundwater

   a. Are you now using groundwater in lieu of surface water? YES _____ NO X.

   b. If credit toward use under a claimed pre 1914 appropriative right through substitution of groundwater in lieu of appropriated water is claimed under section 1011.5 of the Water Code, please show the amounts of groundwater used:

   yr_____ _____ (af/mg) yr_____ _____ (af/mg) yr_____ _____ (af/mg)
   I have data to support the above surface water use reductions due to conjunctive use efforts. YES ___ NO ___

I understand that it may be necessary to document the water savings claimed in "F." above if credit under Water Code sections 1010 and 1011 is sought in the future.

I declare that the information in this report is true to the best of my knowledge and belief.

DATE: 8/29, 2002 at Placerville, California

SIGNATURE: _____

PRINTED NAME: David (first name) K. (middle init.) Witter (last name)

COMPANY NAME: El Dorado Irrigation District

If there is insufficient space for your answers, please use the space provided below.

ITEM	CONTINUATION
E	In the future, water right diversions will be discontinued and the water
	normally diverted at Hangtown Creek will be allowed to flow unrestricted
	to Folsom Lake where it will be rediverted into the District's western
	service area. The District will continue to claim the water right. Agreements
	will be concluded with the USBR & SWRCB.

GENERAL INFORMATION PERTAINING TO WATER RIGHTS IN CALIFORNIA

There are two principal types of surface water rights in California. They are riparian and appropriative rights.

A riparian right enables an owner of land bordering a natural lake or stream to take and use water on his riparian land. Riparian land must be in the same watershed as the water source and must never have been severed from the sources of supply by an intervening parcel without reservation of the riparian right to the severed parcel. Generally, a riparian water user must share the water supply with other riparian users. Riparian rights may be used to divert the natural flow of a stream but may not be used to store water for later use or divert water which originates in a different watershed, water previously stored by others, return flows from use of groundwater, or other "foreign" water to the natural stream system.

An appropriative right is required for use of water on nonriparian land and for storage of water. Generally, appropriative rights may be exercised only when there is a surplus not needed by riparian water users. Since 1914, new appropriators have been required to obtain a permit and license from the State. Appropriate rights can be granted to waters "foreign" to the natural stream system.

Statements of Water Diversion and Use must be filed by riparian and pre 1914 appropriative water users as set forth in Water Code section 5100 with specific exceptions. The filing of a statement (1) provides a record of water use, (2) enables the State to notify such users if someone proposes a new appropriation upstream from their diversions, and (3) assists the State to determine if additional water is available for future appropriators.

The above discussion is provided for general information. For more specific information concerning water rights, please contact an attorney or write to this office. We have several pamphlets available. They include: (1) Statements of Water Diversion and Use, (2) Information Pertaining to Water Rights in California, and (3) Appropriation of Water in California.

"The energy challenge facing California is real. Every California needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at http://www.swrcb.ca.gov"

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
P.O. BOX 2000, SACRAMENTO, CA 95812-2000
(916) 657-2170

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE

If the information below is inaccurate, please line it out in red and provide current information.
Notify this office if ownership or address changes occur during the coming year.

STATE WATER RESOURCES CONTROL BOARD
99 JUN 15 PM 3:04
DIV. OF WATER RIGHTS
SACRAMENTO

PLEASE COMPLETE AND RETURN THIS FORM BY JULY 1, 1999

OWNER OF RECORD: EL DORADO IRRIGATION DISTRICT

EL DORADO IRRIGATION DISTRICT
O & M DEPT
2890 MOSQUITO RD
PLACERVILLE, CA 95667

STATEMENT NO: S014967

SOURCE: HANGTOWN CREEK
TRIBUTARY TO: WEBER CREEK
COUNTY: EL DORADO
DIVERSION
WITHIN: SE¼ OF SW¼ SECTION 7, T10N, R11E, MB&M.

TELEPHONE NUMBER:
(916) 622-4513
YEAR OF FIRST USE: 1852
PARCEL NO:

A. Water is used under: Riparian claim _____ Pre 1914 right X Other (explain); _____

B. Year of first use (Please provide if missing above) _____

C. Amount of Use – Enter the amount of water used each month. If monthly and annual use are not known, check the months in which water was used.

Amounts below are: Gallons _____ Acre-feet X Other _____

Year	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Total Annual
1996	0	0	0	0	120	240	248	248	240	120	0	0	1216
1997	0	0	0	0	68	47	0	0	0	0	0	0	115
1998	0	0	0	20	60	180	130	120	120	110	0	0	740

D. Purpose of Use - Specify number of acres irrigated, stock watered, persons served, etc.

Irrigation x acres; Stockwatering x ; Domestic None ;

Other (specify) _____

E. Changes in Method of Diversion – Describe any changes in your project since your previous statement was filed. (New pump, enlarged diversion dam, location of diversion, etc.)

_____

F. Please answer only those questions below which are applicable to your project.

1. Conservation of water
   a. Describe any water conservation efforts you may have started: _____
   b. _____
   _____
   c. If credit toward beneficial use of water under claimed pre 1914 appropriative water right for water not used due to a conservation effort is claimed under section 1011 of the Water Code, please show the amounts of water conserved:

   19____ _____ (af/mg) 19____ _____ (af/mg) 19____ _____ (af/mg)

2. Water quality and wastewater reclamation
   a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility or water polluted by waste to a degree which unreasonably affects such water for other beneficial uses? YES ____ NO X.

AUG 1 3 1999

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
P.O. BOX 2000, SACRAMENTO, CA 95812-2000
(916) 657-2170

b. If credit toward use under a claimed pre 1914 appropriative water right through substitution of reclaimed water, desalinated water or polluted water in lieu of appropriated water is claimed under section 1010 of the Water Code, please show amounts of reduced diversions and amounts of reclaimed water used:

19____ _____ (af/mg) 19____ _____ (af/mg) 19____ _____ (af/mg)

3. Conjunctive use of surface water and groundwater

a. Are you now using groundwater in lieu of surface water? YES ____ NO X.

b. If credit toward use under a claimed pre 1914 appropriative right through substitution of groundwater in lieu of appropriated water is claimed under section 1011.5 of the Water Code, please show the amounts of groundwater used:

19____ _____ (af/mg) 19____ _____ (af/mg) 19____ _____ (af/mg)

I declare that the information in this report is true to the best of my knowledge and belief.

DATE: 6/11/99, 19____ at Placerville, California

SIGNATURE: William L Wilkins

PRINTED NAME: William (first name) L. (middle init.) Wilkins (last name)

COMPANY NAME: El Dorado Irrigation District

If there is insufficient space for your answers, please use the space provided below.

ITEM	CONTINUATION
____	
____	
____	
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____	
____	
____	
____	

GENERAL INFORMATION PERTAINING TO WATER RIGHTS IN CALIFORNIA

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An appropriative right is required for use of water on nonriparian land and for storage of water. Generally, appropriative rights may be exercised only when there is a surplus not needed by riparian water users. Since 1914, new appropriators have been required to obtain a permit and license from the State.

Statements of Water Diversion and Use must be filed by riparian and per 1914 appropriative water users. The filing of a statement (1) provides a record of water use, (2) enables the State to notify such users if someone proposes a new appropriation upstream from their diversions, and (3) assists the State to determine if additional water is available for future appropriators.

The above discussion is provided for general information. For more specific information concerning water rights, please contact an attorney or write to this office. We have several pamphlets available. They include: (1) Statements of Water Diversion and Use, (2) Information Pertaining to Water Rights in California, and (3) Appropriation of Water in California.

SURNAME

State Water Resources Control Board

John P. Caffrey, Chairman

Peter M. Rooney
Secretary for Environmental Protection

Division of Water Rights
901 P Street • Sacramento, California 95814• (916) 657-2215 FAX (916) 657-1485
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
Internet Address: http://www.swrcb.ca.gov

Pete Wilson
Governor

JUL 2 1 1998

In Reply Refer to:332:KSN:14967

El Dorado Irrigation District
2890 Mosquito Road
Placerville, CA 95667

Dear Ladies and Gentlemen:

STATEMENTS OF WATER DIVERSION AND USE, STATEMENT NUMBERS 14967, 14968, AND 14969

Your statements of water diversion and use have been received and assigned the above numbers. You should refer to these numbers in any future correspondence to this office regarding the statements.

Copies of the statements are enclosed for your records.

Please notify us of any change in address or change in ownership.

The law requires that supplemental statements be filed at three-year intervals. The forms are automatically sent to you by the State Water Resources Control Board at the close of the period.

Thank you for your cooperation. If you have any questions or concerns, please telephone Koso Nodohara of this office at (916) 657-1872.

Sincerely,

KENNETH R BEYER
Associate WRC Engineer
Data Management Unit

Enclosures

KSNodohara:rmontoya:7-20-98
u:\statemen\S14967-9

WR 40e.pl (3/98) JUL 21 1998
SURNAME
DWR 540 REV. 1/86

BK 3910E

S014967

STATEMENT OF WATER DIVERSION & USE

CLAIMANT: EL DORADO IRRIGATION DIST

FILE NUMBER: S014967 NAME INDX(S): _____

CLAIM(S) RECEIVED BY: MAIL _____ OC _____ DATE REC'D: 6/22/98

ACCEPT: _____ RETURN: _____ STREAM CODE: 0-104-09-00-0

QUAD MAP CODE: GG022 QUAD MAP NAME: PLACERVILLE

CALIF COORD: ZONE 2 N 0388800 E 2340600

REMARKS: _____

S014967

S014967

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
STATEMENT OF WATER DIVERSION AND USE
(This is not a Water Right)
This statement should be typewritten or legibly written in ink.

STATE WATER RESOURCES CONTROL BOARD DIV. OF WATER RIGHTS SACRAMENTO '98 JUN 22 PM 1:35

A. Name of person diverting water El Dorado Irrigation District
Address 2890 Mosquito Road, Placerville, CA 95667
Telephone: (530) 622-4513

B. Water is used under: _____ Riparian claim; X Pre 1914 right; _____ Other (explain)

C. Name of body of water at point of diversion Hangtown Creek
Tributary to Weber Creek thence to South Fork American River

D. Place of diversion SE ¼ SW ¼ Section 7, Township 10N, Range 11E, MDM B&M, El Dorado County, and locate it on a print from a U.S.G.S. quad sheet or make a sketch on the section grid on the reverse side with regard to section lines and prominent local landmarks. Name of works Gold Hill Ditch Diversion Dam (see attached quad sheet for P.O.D.)

E. Do you own the land at the point of diversion? YES ☐ NO ☒

F. Capacity of diversion works 4 (cfs or ~~gpm~~) Capacity of storage reservoir None (gallons or acre-feet)
Type of diversion facility: Gravity X, Pump _____
Method of measurement: Weir X, Flume __, Electric Meter __, Water Meter __, Estimate __

G. State quantity of water used each month in gallons or acre-feet

Year	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total Annual
1997	0	0	0	0	68	47	0	0	0	0	0	0	115 AF

If monthly and annual use are not known, check months in which water was used. State extent of use in units, such as acres of each crop irrigated, average number of persons served, number of stock watered, etc.

H. Annual water use in recent years: Maximum 1216 Minimum 1000 (~~gallons or~~ acre-feet)

I. Purpose of use (what water is being used for) Agriculture, irrigation, stock watering

J. General description or location of place of use (use sketch of section grid on reverse if you desire) Service area extends to Gold Hill region west of Placerville. (see attached quad sheet)

K. Year of first use as nearly as known 1852 approximately

L. Name of person filing statement Bill Wilkins
Position: Operations and Maintenance Director
Address: 2890 Mosquito Road, Placerville, CA 95667

I declare under penalty of perjury that the above is true and correct to the best of my knowledge and belief.

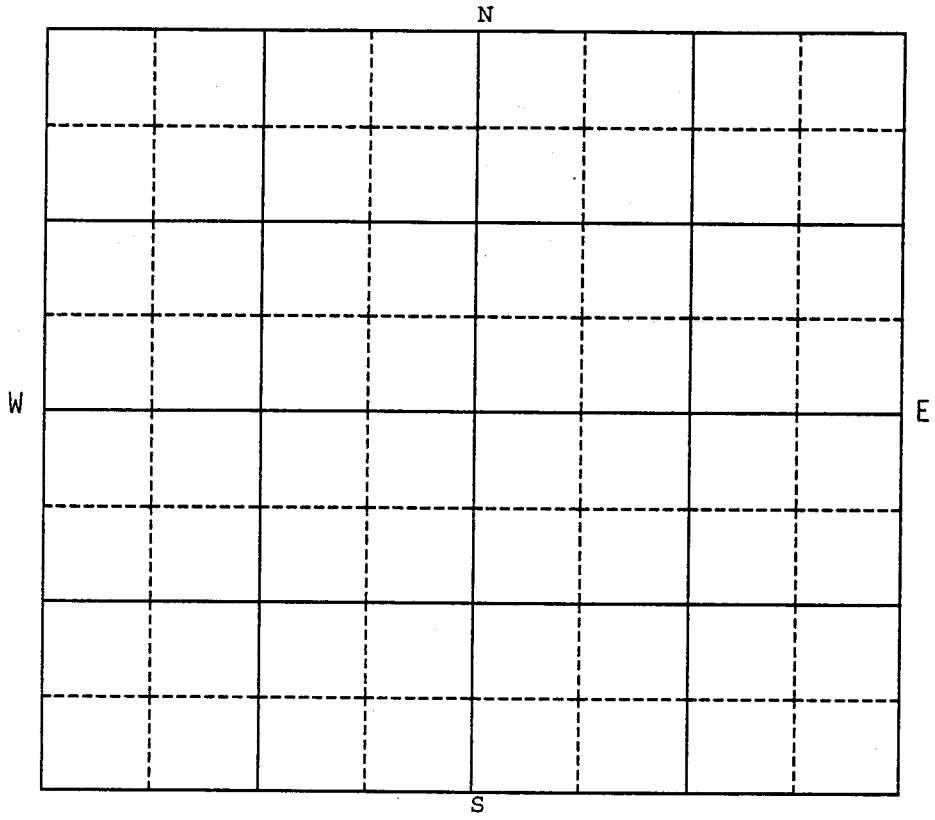
Dated: June 17, 19 98, at Placerville, California

Signature: William F. Wilkins

WR-40 (2/96)

See Instructions on Reverse Side

The location of the diversion point and the place of use may be sketched on this section grid. If it is used, please enter the section(s), township and range below and show any streams or other landmarks that will assist in identifying the area.



Section(s) _____

Township _____; Range _____; _____ B&M

INSTRUCTIONS:

A separate statement should be filed for each point of diversion.

A duplicate copy will be returned for your file.

Please send the completed statement to: State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000

S014967

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
STATEMENT OF WATER DIVERSION AND USE
(This is not a Water Right)
This statement should be typewritten or legibly written in ink.

STATE WATER RESOURCES CONTROL BOARD
98 JUN 22 PM 1:33
DIV. OF WATER RIGHTS
SACRAMENTO

A. Name of person diverting water El Dorado Irrigation District
Address 2890 Mosquito Road, Placerville, CA 95667
Telephone: (530) 622-4513

B. Water is used under: ____ Riparian claim; X Pre 1914 right; ____ Other (explain)

C. Name of body of water at point of diversion Hangtown Creek
Tributary to Weber Creek thence to South Fork American River

D. Place of diversion SE ¼ SW ¼ Section 7, Township 10N, Range 11E, MDM B&M, El Dorado County, and locate it on a print from a U.S.G.S. quad sheet or make a sketch on the section grid on the reverse side with regard to section lines and prominent local landmarks. Name of works Gold Hill Ditch Diversion Dam (see attached quad sheet for P.O.D.)

E. Do you own the land at the point of diversion? YES ☐ NO ☒

F. Capacity of diversion works 4 (cfs or ~~gpm~~) Capacity of storage reservoir None (gallons or acre-feet)
Type of diversion facility: Gravity X, Pump ____
Method of measurement: Weir X, Flume __, Electric Meter __, Water Meter __, Estimate __

G. State quantity of water used each month in gallons or acre-feet

Year	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total Annual
1996	0	0	0	0	120	240	248	248	240	120	0	0	1216AF

If monthly and annual use are not known, check months in which water was used. State extent of use in units, such as acres of each crop irrigated, average number of persons served, number of stock watered, etc.

H. Annual water use in recent years: Maximum 1216 Minimum 1000 (~~gallons or~~ acre-feet)

I. Purpose of use (what water is being used for) Agriculture, irrigation, stock watering

J. General description or location of place of use (use sketch of section grid on reverse if you desire) Service area extends to Gold Hill region west of Placerville. (see attached quad sheet)

K. Year of first use as nearly as known 1852 approximately

L. Name of person filing statement Bill Wilkins
Position: Operations and Maintenance Director
Address: 2890 Mosquito Road, Placerville, CA 95667

I declare under penalty of perjury that the above is true and correct to the best of my knowledge and belief.

Dated: June 17, 19 98, at Placerville, California

Signature: William F. Wilkins

WR-40 (2/96)

See Instructions on Reverse Side

S014967

El Dorado Irrigation District

In reply refer to: 00698-5767

June 16, 1998

Koso Hodohara
State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, Ca 95812-2000

Subject: Statements of Water Diversions and Use
Squaw Hollow Creek 1997, Weber Creek 1996 & 1997
Hangtown Creek 1996 & 1997, El Dorado County

Dear Mr. Hodohara:

Attached herewith are "Statements of Water Diversions and Use", covering diversions works on Weber Creek, Squaw Hollow Creek and Hangtown Creek, in El Dorado County. Water has been diverted by the El Dorado Irrigation District and predecessors, from these creeks, since the mid-1800's and are claimed under pre-1914 rights.

We understand information on water diversions and use by all appropriators of water is required by the Division of Water Rights, to assist them in determining the amount of water available for future use, as well as pre-1914 and riparian claims. Accordingly, please assign statement numbers for the above diversions when sending future statements. Details of these diversion works follow below.

Hangtown Creek Diversion

With regard to water availability from Hangtown Creek during 1997, diversions which normally commence about May 15 each year were not fully met, due to a major mud slide which destroyed a large portion of PG&E's El Dorado Canal. The canal, in addition to transporting water for power generation, also conveys a large part of the District's domestic water to the PG&E Forebay and the District's Main Ditch. Water from the Main Ditch is released into Hangtown Creek to supplement summer creek flows which are then diverted at the diversion works into the Gold Hill Ditch for agricultural uses. The outage of PG&E's Main Canal (which originates on the South Fork American River) made it impractical to fully operate the Hangtown Creek diversion works during the 1997 irrigation season. Reconstruction of the Main Canal is underway and should be ready to commence operations in early 1999.

2890 MOSQUITO ROAD • PLACERVILLE • CA 95667 • PHONE (916) 622-4513

Under normal circumstances diversions from Hangtown Creek are made in the amounts shown on the attached statement for 1996. As indicated on the 1997 statement, diversions were made during May and June only because of the low flows in the creek

Weber Creek Diversion

In the early part of 1996, the District was directed by the Federal energy Regulatory Commission and the State Division of Safety of Dams to discontinue storing water in Weber Reservoir (Application No.1692) because of possible stability problems with the dam during an earthquake. Plans are currently underway to stabilize the dam by reinforcing the arches with roller compacted concrete.

Weber Reservoir, which impounds a portion of the flow of Weber Creek is used to supplement summer natural flows diverted into the District's Farmers Free Irrigation Ditch, located down stream of the reservoir. Historically, the diversion amounts are as shown on the attached statement for 1996. However, during early summer 1997, direct diversions from Weber Creek, in the absence of supplemental releases from Weber Reservoir, were too small to maintain normal service to customers causing ditch operations to discontinue after June 30, 1997.

Squaw Hollow Creek Diversion

Diversions are made from Squaw Hollow Creek year round into the District's East Diamond Irrigation Ditch, as shown on the attached statement for 1997.

Please add the above diversion locations (see enclosed copies of partial USGS quad sheets for POD's) to your data base, including the amounts listed for 1996 and 1997. Two copies of each statement are attached in order that you may return one copy showing your acknowledgement of the filings and statement numbers.

Please contact the undersigned at (530) 642-4040, if you require any further information.

Sincerely,

EL DORADO IRRIGATION DISTRICT

Bill Wilkins

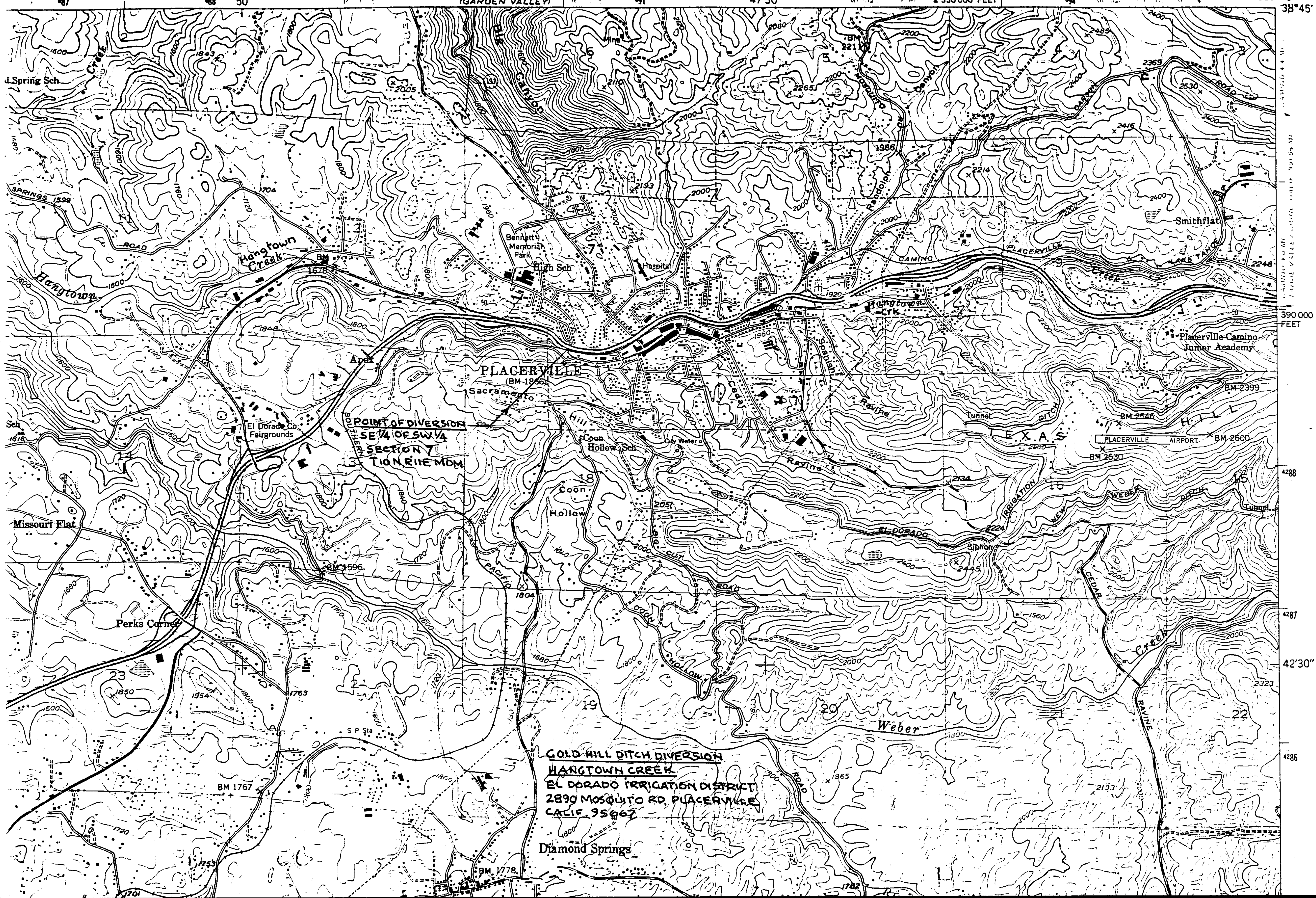
Bill Wilkins, Director
Operations and Maintenance

Enclosures
ld
cc: Fred McKain

IOR DIRECTOR OF PUBLIC WORKS

CALIFORNIA – EL DORADO CO.
7.5 MINUTE SERIES (TOPOGRAPHIC)
NE/4 PLACERVILLE 15' QUADRANGLE

S014967

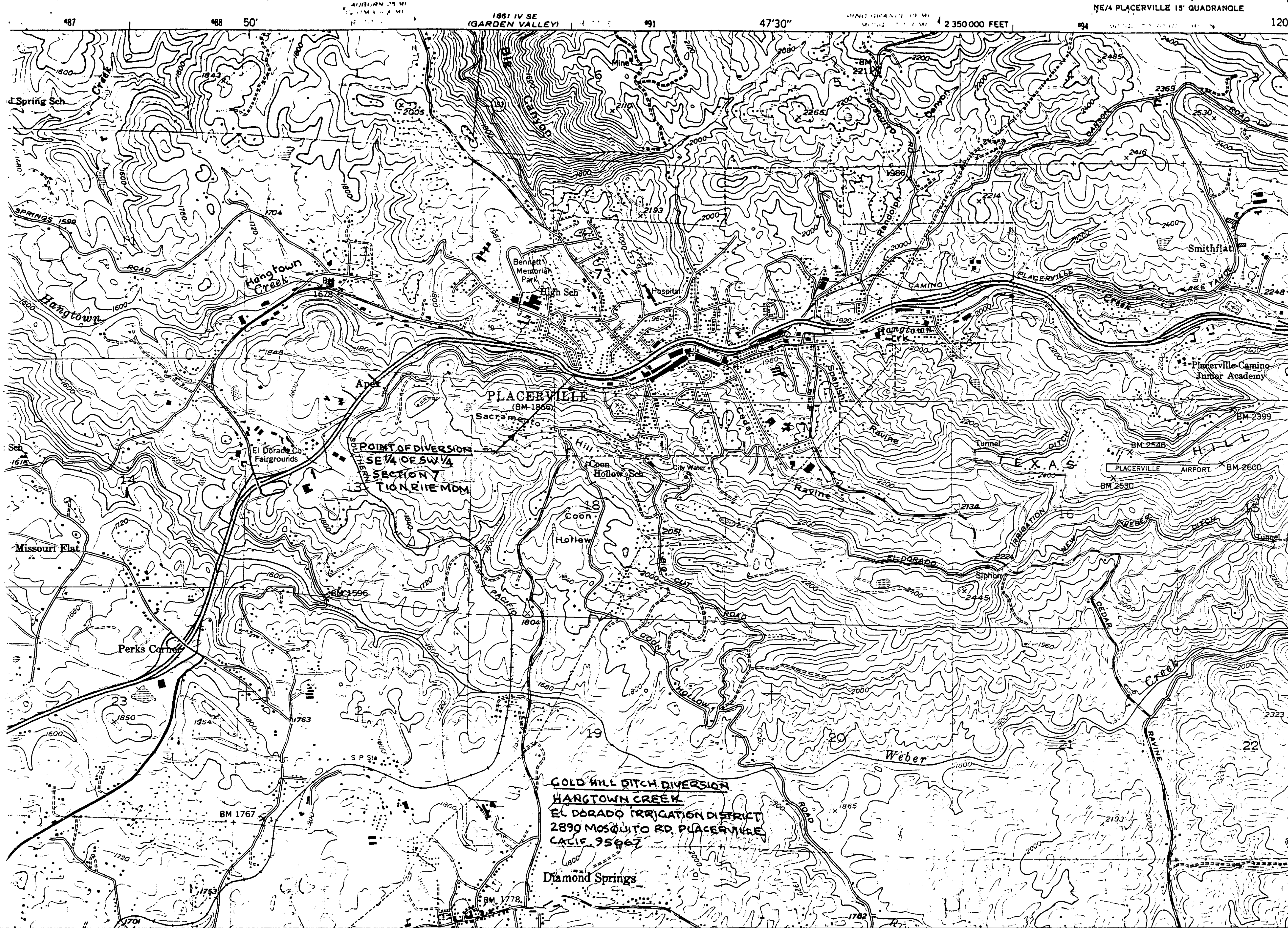


POINT OF DIVERSION
SE 1/4 OF SW 1/4
SECTION 7
T10N, R11E MDM
GOLD HILL DITCH DIVERSION
HANGTOWN CREEK
EL DORADO IRRIGATION DISTRICT
2890 MOSQUITO RD. PLACERVILLE
CALIF. 95667
1861 IV SE
(GARDEN VALLEY)
50'
47'30"
2 350 000 FEET
120°45'
38°45'
390 000
FEET
42'30"
PLACERVILLE
(BM 1866)
Hangtown Creek
Big Canyon
Bennett Memorial Park
High Sch
Hospital
Mine
Mosquito Rd
Randolph
Canyon
Carson Road
Smithflat
Placerville
Lake Tahoe
Camino
Hangtown Crk
Placerville-Camino Junior Academy
Spanish Ravine
Cedar Ravine
Sacramento Hill
Coon Hollow Sch
City Water
Coon Hollow
Big Cut Road
El Dorado Co Fairgrounds
Apex
Southern Pacific
Missouri Flat
Perks Corner
S P Sta
BM 1596
BM 1767
BM 1778
Diamond Springs
Weber Creek
Texas Hill
Placerville Airport
BM 2399
BM 2546
BM 2600
BM 2530
Tunnel
Ditch
El Dorado Irrigation
Siphon
New Weber Ditch
Cedar Ravine
Creek
Road

IOR DIRECTOR OF PUBLIC WORKS

CALIFORNIA – EL DORADO CO.
7.5 MINUTE SERIES (TOPOGRAPHIC)
NE/4 PLACERVILLE 15' QUADRANGLE

S014967



1861 IV SE
(GARDEN VALLEY)
50'
47'30"
2 350 000 FEET
120°45'
38°45'
390 000
FEET
42'30"
POINT OF DIVERSION
SE 1/4 OF SW 1/4
SECTION 7
T10N R11E MDM
GOLD HILL DITCH DIVERSION
HANGTOWN CREEK
EL DORADO IRRIGATION DISTRICT
2890 MOSQUITO RD. PLACERVILLE
CALIF. 95667
PLACERVILLE
(BM 1866)
Hangtown Creek
Big Canyon
Bennett Memorial Park
High Sch
Hospital
Apex
Sacramento Hill
El Dorado Co. Fairgrounds
Coon Hollow Sch
City Water
Coon Hollow
Missouri Flat
Perks Corner
Diamond Springs
Smithflat
Placerville-Camino Junior Academy
PLACERVILLE AIRPORT
TEXAS HILL
BM 2399
BM 2546
BM 2600
BM 2530
BM 1596
BM 1767
BM 1778
Tunnel
Siphon
Weber Creek
Cedar Ravine
Spanish Ravine
Randolph Canyon
MOSQUITO RD
CARSON ROAD
CAMINO
PLACERVILLE LAKE TAHOE
EL DORADO IRRIGATION DITCH
NEW WEBER DITCH
BIG CUT ROAD
COON HOLLOW ROAD
SOUTHERN PACIFIC
S P Sta
Mine